

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: CITY OF DETROIT, . Docket No. 13-53846
MICHIGAN, .
 . Detroit, Michigan
 . September 29, 2014
Debtor. . 9:06 a.m.
.

HEARING RE. (#7667) EMERGENCY MOTION FOR RELIEF FROM
STAY AND WAIVING THE FRBP 4001(a)(3) FILED BY
CREDITOR CITIZENS UNITED AGAINST CORRUPT GOVERNMENT;
CONTINUED TRIAL RE. OBJECTIONS TO CHAPTER 9 PLAN
BEFORE THE HONORABLE STEVEN W. RHODES
UNITED STATES BANKRUPTCY COURT JUDGE

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1 THE COURT: Let's turn our attention to the
2 emergency motion for relief from stay, please.

3 MR. PATERSON: Andrew Paterson on behalf of the
4 petitioners.

5 MS. NORRIS: Megan Norris of Miller Canfield --

6 THE COURT: All right. Stand by one second while
7 those who would like to leave the courtroom get an
8 opportunity to do that.

9 MR. THORNBLADH: Thank you, your Honor.

10 MS. JENNINGS: Thank you, your Honor.

11 THE COURT: You're welcome. Let's give folks one
12 more minute. And I think we are ready to proceed, sir.

13 MR. PATERSON: Your Honor, this is petitioner's --
14 movant's motion for relief from the stay for purposes of
15 filing in the Wayne County Circuit Court an open meetings
16 case against the Detroit City Council. And I would first
17 indicate that the ideal of a democratic government is too
18 often thwarted by bureaucratic secrecy and unresponsive
19 officials. Citizens frequently find it difficult to discover
20 what decisions are being made and what facts lie behind those
21 decisions. The Open Meetings Act protects citizens' right to
22 know what's going on in government by opening to full public
23 view the process by which elected and nonelected officials
24 make decisions on citizens' behalf. Those are not my words.
25 Those are the words of the Michigan legislature upon the

1 introduction of the Open Meetings Act and the Freedom of
2 Information Act in 1976 in the post-Watergate era. The
3 Section 3 of the Open Meetings Act states in its very first
4 sentence, "All meetings of a public body shall be open," and
5 the law as it is developed construes exemptions from that
6 narrowly and broadly protects the right of citizens to know
7 what's going on in their government.

8 The response from the debtor on behalf of the city
9 council indicated, and I think correctly, that the violation
10 of the Open Meetings Act is not really the issue before this
11 Court, and I think that's correct, although the bulk of the
12 response did try to repeat over and over and over again that
13 it was a permitted meeting under various exemptions,
14 particularly the legal matters. The evidence that the
15 movants intend to introduce would be the extensive public
16 statements about the meetings from the participants in the
17 meetings indicating that there were negotiations and
18 discussions for three full days. I think it was a patent
19 violation of the Open Meetings Act, and the plaintiffs intend
20 to seek as well as a declaration of that an injunction
21 against further violations by the Detroit City Council with
22 respect to the Open Meetings Act.

23 THE COURT: Well, how do you deal with the city's
24 argument that your claim is moot?

25 MR. PATERSON: It's not. I mean they've

1 indicated --

2 THE COURT: How do you deal with it? What's your
3 response?

4 MR. PATERSON: They've indicated repeatedly that
5 these were meetings and discussions addressing the facts
6 behind the decisions, and those are clearly covered by the
7 Open Meetings Act. The city's response or the debtor's
8 response is the response that it may want to make to a
9 circuit judge, but for purposes of this Court's relief, the
10 merits of the case aren't really before it, although I'm
11 confident this is a lay-down open meetings violation. The
12 city has failed in its response to point to any specific harm
13 that would happen to this proceeding or in this court.
14 They've made --

15 THE COURT: Well, but I need an answer to my
16 question because if the matter is moot, there's no sense in
17 granting relief from the stay.

18 MR. PATERSON: I'm seeking an injunction.

19 THE COURT: What's not moot about it?

20 MR. PATERSON: I'm seeking --

21 THE COURT: What relief can a court provide to your
22 clients?

23 MR. PATERSON: The Circuit Court can and probably
24 will enjoin them from further violations of the Open Meetings
25 Act. Citizen's right to know. It's a fundamental right of

1 every citizen of this state to see that public bodies --

2 THE COURT: But there's no more --

3 MR. PATERSON: I did in our motion --

4 THE COURT: Let me just -- let me just finish my
5 question.

6 MR. PATERSON: Yeah. Go ahead.

7 THE COURT: There's no more imminent or threatened
8 violation of the Open Meeting Act at this point.

9 MR. PATERSON: The circuit judge may determine that
10 and may not issue an injunction, but I am going to seek an
11 injunction against further violations. I must say I have in
12 the past sued the city's city council for past violations.
13 This is not a new thing to disregard the public's right to
14 know. I don't understand it as a philosophy of governance.
15 I would think that you would want to educate your
16 constituents as to all of the issues behind all of your
17 decisions so that they better understand it and don't suspect
18 that there's some secret deal, I think particularly in this
19 case. There's not been any decision made by this city
20 council other than the initial one back 18 months ago that's
21 been more important. The citizens are wondering.

22 THE COURT: What happened 18 months ago?

23 MR. PATERSON: Mr. Orr was accepted and appointed to
24 the emergency manager position under Act 43 --

25 THE COURT: Did the city council do that?

1 MR. PATERSON: City council did not oppose it. I
2 think it was a five to four vote, as I recall, or four -- it
3 was a one vote majority. That's that last decision that the
4 council made that had the importance to this decision, and I
5 don't think that there's any particular dispute with the
6 merits of the decision. It's probably a good thing. I don't
7 think that's the issue. I think the way they have gone about
8 it in hiding it from their constituents is the issue. That
9 doesn't serve the public interest well. It doesn't --

10 THE COURT: Does the law require a public body to
11 open up its meetings when it's seeking legal advice from its
12 attorneys?

13 MR. PATERSON: I think it's pretextual that they
14 said that. How do you negotiate --

15 THE COURT: Please answer my question.

16 MR. PATERSON: Oh, the law permits certain matters
17 that are legal matters that are involved in litigation but
18 also in the public body's obligations under contract or the
19 law to be discussed, and they do allow them to be discussed
20 in private.

21 THE COURT: And so why -- where is the evidence that
22 something other than that happened here?

23 MR. PATERSON: The evidence is in the public
24 statements of the participants in the meeting.

25 THE COURT: Like what?

1 MR. PATERSON: Pardon?

2 THE COURT: Like what? Name one.

3 MR. PATERSON: Three days of negotiations. Even in
4 their own brief, they talked about reaching a consensus. All
5 of the facts that underlie the decision that was made and the
6 agreements that were reached have been excluded from the
7 public view.

8 THE COURT: Now, you said there were public
9 statements that suggest that something at these meetings
10 happened other than council deliberating with its attorneys
11 on legal matters.

12 MR. PATERSON: I do say that. I do say that, and I
13 think the defendants --

14 THE COURT: I'd ask you to identify one.

15 MR. PATERSON: The defendants indicate that in their
16 response. They indicate that the closed sessions were
17 conducted for the purposes of obtaining legal advice.
18 They've said that repeatedly, repeatedly, repeatedly, but
19 they also indicate --

20 THE COURT: The fact that they state it repeatedly
21 doesn't make it wrong.

22 MR. PATERSON: No, but if I call a dog's tail a leg,
23 he still only has four legs, as Lincoln observed.

24 THE COURT: Okay.

25 MR. PATERSON: The statement in the defendant's

1 response indicates that they reached a consensus and that the
2 consensus was reflected in the agreements that were signed
3 and authorized by the city council. Those agreements --

4 THE COURT: Well, but they were -- it was a -- it
5 was a consensus concerning this litigation.

6 MR. PATERSON: It's a consensus as to how to proceed
7 with respect to the future --

8 THE COURT: This litigation.

9 MR. PATERSON: I don't see that as an exemption
10 under the Open Meetings Act.

11 THE COURT: Well, but --

12 MR. PATERSON: All public meetings -- all
13 meetings --

14 THE COURT: I thought you had already admitted that
15 there was an exemption for legal advice relating to
16 litigation.

17 MR. PATERSON: Yes, and I think the public
18 statements by the participants in the meeting indicate that
19 was pretextual, very simply pretextual.

20 THE COURT: Okay. But I'm asking you --

21 MR. PATERSON: In fact, you don't need to see the
22 smirk of the mayor when he was asked that question to know
23 that it was pretextual. Other members that attended the
24 meeting saw that they had a lot of negotiations to do over
25 the timing and all of those issues that were involved that

1 are substantive.

2 THE COURT: But I'm asking you why isn't all of that
3 covered by the exemption?

4 MR. PATERSON: It's not. It's not legal matters.

5 THE COURT: But to tell me it's not doesn't answer
6 my question. Why isn't it? What's the --

7 MR. PATERSON: Participating --

8 THE COURT: What's the legal analysis that
9 establishes that it's not?

10 MR. PATERSON: Participating in a negotiation with
11 parties is not legal analysis. That's not discerning legal
12 analysis. That's my right to participate in a negotiation,
13 and the city council is told that in their legal opinion, and
14 then they proceed to negotiate. Those are public
15 discussions.

16 THE COURT: But it's negotiation over a legal matter
17 in litigation.

18 MR. PATERSON: It does not exempt the facts that
19 underlie the decision and the consensus and the discussions
20 that were reached with respect to this. Not all legal --

21 THE COURT: What's the best case you've got in
22 support of your position?

23 MR. PATERSON: I think I cited them in my brief, and
24 they do address the scope of the legal exemption. It's
25 certainly in the context of litigation it can arise. It is

1 also, though, important to know what were the bases reached
2 for some compromise within those litigations or the facts
3 underlying -- the discussion of the facts underlying and the
4 truth of those facts. The substance of that decision is the
5 kind of decision that a Circuit Court would make.

6 THE COURT: Well, let me propose -- let me propose
7 to you a hypothetical. Counsel for the city wants to give --
8 all right. The term "counsel" obviously has two distinct
9 meaning here. The attorney for the city wants to give the
10 council -- the city council legal advice on how to settle a
11 personal injury suit and explain why he's recommending a
12 settlement at X dollars. Okay. They go into closed session
13 because it's in litigation, and one of the members says, "I
14 don't want to -- I don't think we should settle this for X.
15 I think we should settle it for Y," and they continue to have
16 a discussion with the attorney about the legal merits of the
17 case, the strengths and weaknesses on each side, and they
18 come to a resolution to offer a settlement at Z. How much,
19 if any, of that needs to be in public under the Open Meetings
20 Act?

21 MR. PATERSON: The legal obligations or the
22 recommendation of the attorney if it's in writing is
23 certainly something that can be discussed. Why did you reach
24 that number, why do you propose settling it, and here's what
25 I propose settling it for because of and gives them the

1 merits, objections to it, discussion of it, starts to
2 borderline whether or not that is exempt. That's the circuit
3 judge's obligation to determine in the proceeding, and the
4 minutes --

5 THE COURT: So your position is that even the
6 attorney's statement of reasons why the case should not be
7 settled at Y, it should be settled at X, is something that
8 might be subject to the Open Meetings Act?

9 MR. PATERSON: Might be; might be. Not likely, but
10 might be. More than often -- more often than not there will
11 be a consensus reached, but the discussions here travel
12 beyond the settlement of a lawsuit. This is the active
13 participation of the city in its future of the most
14 fundamental aspects of it and the regaining of the power to
15 do that. That was what was on the table according to Mr. Orr
16 and his orders that were entered in respect to that. Those
17 are matters that reach well beyond the legal obligations of
18 the city and involve widespread negotiation over the
19 regaining of the power of the elected members of the city
20 council.

21 THE COURT: Well, but all in relation to the
22 administration of this bankruptcy from the city's
23 perspective.

24 MR. PATERSON: The city is also obligated and the
25 emergency manager is also obligated to administer the city

1 and administer under the law all of the obligations of the
2 city and the business of the city. They can't blanket the
3 business of the city with a, well, it's in Bankruptcy Court;
4 therefore, the stay is a shield against violations of the
5 Open Meetings Act and other violations of law.

6 THE COURT: Anything further, sir?

7 MR. PATERSON: No, other than I did in my motion
8 indicate to the Court that I'm not seeking to undo, as I'd
9 have the right to do under the Open Meetings Act, the actions
10 taken. The relief that we're seeking in the Circuit Court
11 would be prospective only, and it would be prospective with
12 respect to further violations of the Open Meetings Act by the
13 Detroit City Council.

14 THE COURT: And of course you'd want attorney fees.

15 MR. PATERSON: And of course I would want attorney's
16 fees.

17 THE COURT: Thank you.

18 MR. PATERSON: Thank you.

19 MS. NORRIS: Good morning, your Honor. Megan Norris
20 on behalf of the city. I'll be brief. It's clear that
21 you've reviewed everything. First of all, the timing of the
22 motion and the substance of plaintiff's motion makes it clear
23 that the events at issue are over. Plaintiffs filed their
24 motion mid-day on Thursday. By the end of the day Thursday,
25 the city and state had filed with this Court a joint notice

1 of transition plan, which outlines a proposed transition from
2 the emergency manager to the city elected officials.
3 Plaintiff in their motion does not -- petitioners don't argue
4 that there have been any other violations of the Closed
5 Meetings Act by city council. City council has been in and
6 out of closed session for a number of reasons on a number of
7 occasions since this bankruptcy trial began. The only issue
8 are the meetings that have just taken place. One of the
9 Garzoni factors is the creditor's claim -- whether the
10 creditor's claim is likely to succeed on the merits, and as
11 the Court has noted, there is no evidence of any violation.
12 The meeting was properly closed. The statute was cited. The
13 transition -- the subject being the transition, specifically
14 PA 436 transition matters, was cited in city council's
15 closure resolution. This was not a blanket business of the
16 city closure. This was not even a blanket attorney-client
17 privilege closure. This was specifically to discuss the
18 memoranda of counsel and the advice of counsel and discussion
19 of the memoranda relating to the transition. Clearly there
20 can be harm to the city if this is allowed to go forward at
21 this time, and that really is the question. It's not whether
22 it can go forward. It's whether it can go forward at this
23 time, whether the stay should be lifted. As this Court has
24 noted repeatedly in the trial in front of it as we speak, the
25 issue on the plan of adjustment is not simply whether debts

1 can be resolved. The issue is also whether the city has a
2 viable plan to go forward, and a big part of that plan is how
3 the city moves from the emergency manager that has
4 effectively guided the city through this bankruptcy back to
5 the elected officials as the city goes forward to allow a
6 lawsuit against exactly those players, city council, but
7 obviously the mayor would be involved. Obviously the
8 emergency manager would be involved. To allow a lawsuit
9 involving those folks to go forward at this time would be
10 detrimental to exactly what this Court is trying to
11 accomplish in smoothing the transition of the city out of
12 bankruptcy. If you have any questions, I'm happy to answer
13 them.

14 THE COURT: What's the connection given that Mr.
15 Paterson says all he wants is an injunction against future
16 violations of the Open Meetings Act?

17 MS. NORRIS: Right. So the connection is it's a
18 law -- first, he has to prove a violation, so there's a
19 lawsuit, and in that lawsuit there will be arguments about
20 what happened or didn't happen. That will require at minimum
21 an in camera review of what happened in closed session. In
22 many cases Mr. Paterson has sought to take depositions of
23 people involved to determine whether the mayor's smirk -- I
24 use Mr. Paterson's term -- means anything, to determine
25 whether, as in the Wyoming case, there were winks or nods or

1 slips of paper across the table, so there's discovery in that
2 case. So before there's any finding of a violation, before
3 any injunction is issued, before any attorney's fees are
4 awarded, there has to be a finding, and that is exactly the
5 kind of action that the city does not need to be going
6 through right now. It is a very sensitive area. The orders
7 have been issued. You've seen the transition, the joint
8 notice of transition. As Mr. Paterson noted, there was a
9 city council meeting at the beginning not to oppose the
10 appointment of Kevyn Orr, and there has been a meeting at the
11 end. The parties have agreed that there is a date certain --
12 i.e., the effective date of the plan of adjustment -- and
13 Mr. Orr has begun the transition, so there's no evidence that
14 there would be meetings on this topic going forward. If
15 there were, they would be noticed in the same way, but to say
16 that the notice was pretextual in some way when the results
17 of the meeting are exactly the topic identified in the legal
18 memoranda, it's not like the results of the meeting are
19 something unrelated to exactly what was identified. The
20 transition plan is absolutely without any support.

21 THE COURT: Thank you.

22 MS. NORRIS: Thank you.

23 MR. PATERSON: If the Court is concerned, I'm fairly
24 satisfied that there's ample evidence that won't require the
25 deposition of the mayor or the emergency manager in this

1 case. Statements made by city council members and others are
2 public and ample, and I, frankly, expect that they will have
3 to admit those statements once the proceeding has begun.

4 THE COURT: The city questions why this can't wait,
5 if it needs to be pursued at all, until after the bankruptcy
6 is over.

7 MR. PATERSON: The injunction relief would prevent
8 further violations of the Open Meetings Act and allow the
9 citizens to see what decisions are being made in public and
10 what the facts are that lie behind those decisions.

11 THE COURT: Well, fair enough, but you don't have
12 any evidence of any imminent or threatened violation of the
13 Open Meetings Act other than, well, they did it once, so they
14 might do it again.

15 MR. PATERSON: I think that question flips the
16 burden. I think the proceeding, if the stay were lifted, is
17 not going to affect this Court's actions or anything in this
18 Court whatsoever. It's going to carry on independent of
19 that, and there's absolutely no burden on this Court by
20 removing and lifting the stay with respect to this
21 litigation, and, in fact, I think that --

22 THE COURT: Well, the argument isn't based on burden
23 on this Court. The argument is based on burden to the city
24 in having to address your lawsuit while it's trying to wrap
25 up this --

1 MR. PATERSON: The city --

2 THE COURT: -- critical litigation here.

3 MR. PATERSON: The city law department has had
4 little to do during this proceeding because many of the cases
5 that were stayed did not proceed. I know for --

6 THE COURT: You're concerned about full employment
7 for the city law department?

8 MR. PATERSON: I think they're more than able and
9 capable of defending this action.

10 THE COURT: Well, but it's not just the law
11 department. It's the city.

12 MR. PATERSON: I don't see how potentially, I guess,
13 a deposition -- if there's a failure to admit public
14 statements that were made and a request for that admission is
15 denied, I suppose at that point I need to take the deposition
16 of the person that made the statement, and in most cases it's
17 members of the city council that were explaining their vote
18 and why they carried out for three days the discussions on
19 this matter. That doesn't seem to impose any burden on this
20 Court.

21 THE COURT: All right. Thank you. Anything
22 further?

23 MR. PATERSON: Thank you.

24 MS. NORRIS: No, your Honor.

25 THE COURT: All right. I'll take this under

1 advisement for 15 minutes, and we'll reconvene at 9:45,
2 please.

3 THE CLERK: All rise. Court is in recess.

4 (Recess at 9:30 a.m., until 9:50 a.m.)

5 THE CLERK: All rise. Court is back in session.
6 You may be seated.

7 THE COURT: It appears everyone is present. The
8 standard by which the Court determines this and other motions
9 for relief from the stay is whether the moving party has
10 established cause. The matter is, of course, addressed to
11 the Court's discretion. In evaluating whether there is cause
12 for relief from the stay, the Court considers the harm to the
13 moving party if the stay is maintained and the harm to the
14 debtor if this motion is granted and relief from stay is
15 granted. In this case, if relief from the stay is denied and
16 the stay is maintained in effect, the plaintiffs will be
17 forced to wait to pursue their claim against the city until
18 the stay terminates, which would happen either upon
19 confirmation or dismissal of the case. If the motion is
20 granted, the city will be, of course, required to defend the
21 lawsuit that would be filed.

22 The city maintains that the lawsuit is moot and that
23 it otherwise lacks merit under the Open Meetings Act and that
24 it should not be forced to defend a lawsuit that is either
25 moot or lacks merit or both. There are certainly aspects of

1 the claimed violation of the Open Meetings Act that are moot,
2 but it appears that there are aspects that are not moot. For
3 example, the motion states that if the Circuit Court were to
4 find a violation of the Open Meetings Act, the plaintiffs
5 would seek disclosure of certain materials relating to the
6 closed meeting such as minutes or transcripts, et cetera.

7 The Court also must find in the circumstances that
8 the claimed violation of the Open Meetings Act is not a
9 frivolous claim. If it were, the Court, of course, would not
10 grant relief from the stay since no party should be required
11 to defend a frivolous action. The claim is not frivolous.
12 The city has a defense to it, perhaps even a strong defense,
13 but the claim itself is not a frivolous claim.

14 On the city's contention that the requirement to
15 defend the lawsuit may somehow impact its ability to
16 efficiently pursue this bankruptcy, the Court must find that
17 there is really nothing to support or suggest that.

18 Accordingly, in the circumstances, the Court
19 concludes that its discretion should be exercised in favor of
20 granting the motion, and the motion is granted. Mr.
21 Paterson, please prepare an order, have it approved as to
22 form by city counsel -- the city's attorneys and have it --
23 and then submit it to the Court.

24 MR. PATERSON: Will do, your Honor. Thank you.

25 THE COURT: All right. Let's turn our attention

1 back to the trial then. And let's stand by one second while
2 the courtroom settles down again. Sir.

3 MR. HEIMAN: Good morning, your Honor. David Heiman
4 of Jones Day for the city. I would like to just take a
5 minute, with your indulgence, to mark the moment of the
6 transition that was just the subject of your prior hearing,
7 and we did not want to let this moment pass. At a time like
8 this, many thoughts race through one's mind, and I'm sure in
9 Mr. Orr's case hundreds or thousands of thoughts race through
10 his mind based on the last 18 months. But as your Honor
11 knows, his term, if I can call it that, essentially expired
12 yesterday at the conclusion of the 18 months, and that term
13 was dealt with by the four legal authorities, government
14 entities, including Mr. Orr, that have some participation in
15 this matter. That would be the state, the mayor, Mayor
16 Duggan, city council, and Mr. Orr himself. And at least in
17 my view, this should be looked upon as somewhat of a right of
18 passage for the City of Detroit, a very momentous occasion
19 even though we are, indeed, in the middle of a trial seeking
20 confirmation of the plan of adjustment. So I would like to
21 address both perhaps gratuitously all the benefits that have
22 been derived from the implementation of 436 and explain to
23 the Court, as I assume you've read in the newspapers as well
24 as the papers that were filed, the joint notice that was
25 filed, but an event that is perhaps new and different for

1 those who have lived in Detroit the last few decades where
2 four legal authorities that impact the City of Detroit have
3 come together in a unified fashion in the best interest of
4 Detroit.

5 So in doing that and explaining what we see is
6 happening now, I would also like to make it clear to the
7 Court that we -- that I rise without presumption. We are
8 fully cognizant that it is and will continue to be the city's
9 burden to demonstrate that it has earned the right to emerge
10 from Chapter 9. We are in the process of doing that. We
11 have every hope and expectation we will be able to do that,
12 but we also totally recognize that the gavel remains in the
13 hands of your Honor and that we submit ourselves to that
14 process with the hope that we will swiftly emerge from
15 Chapter 9.

16 As I said, Mr. Orr's statutory reign, if you will,
17 has expired, but not without a lot of consideration on how to
18 transition from Mr. Orr's supervision back to the city
19 council and the mayor, and so what you've seen through the
20 joint notice is a 9-0 resolution of the city -- city council,
21 that is -- which is confirmed by the mayor, and as
22 acknowledged and confirmed by Mr. Orr, that the city itself
23 is ready to take back the reins through the mayor's office
24 and city council. And the good news for the bankruptcy is
25 that the city council, the mayor, and the state have

1 recognized that we are here today this far in the progress --
2 in the process as a result of Mr. Orr's supervision, and it
3 only makes good sense to provide that Mr. Orr shall see it to
4 its conclusion hopefully and that his ability to continue to
5 supervise the bankruptcy, the pursuit of the confirmation of
6 the plan of adjustment as well as implementation of a plan of
7 adjustment should it be confirmed should remain intact, and,
8 therefore, the authorities have determined that he should
9 stay in place for that limited purpose until the effective
10 date of the plan.

11 With that, I would like to refer you to the
12 specifics of the city council resolution. There is a recital
13 on the first page that confirms that the city council is
14 supportive of the plan of adjustment and seeks a smooth
15 completion and that it has agreed to retain with Mr. Orr
16 those powers necessary to see that occur. And Mr. Orr
17 himself has issued Order #42, Emergency Manager Order Number
18 42, which delineates the allocation of responsibilities among
19 himself, the city council, and the mayor, and, of course, his
20 role will continue to be, as I said, the management of the
21 bankruptcy proceeding and the implementation of the plan of
22 adjustment, so with that -- and if the Court has any
23 questions, I'd be happy to try to address them.

24 THE COURT: No. Thank you, sir.

25 MR. HEIMAN: Thank you.

1 MR. HERTZBERG: Good morning, your Honor. Robert
2 Hertzberg, Pepper Hamilton, on behalf of the city. Tomorrow
3 is a date that the Court set aside to handle the objection
4 filed by the UAW. We've been in discussions with the UAW.
5 We have a mediation now set up for tomorrow in a hope to try
6 and resolve the dispute with the UAW. Based upon that, we
7 would ask that the Court allow us to go to mediation
8 tomorrow, adjourn the hearing on the UAW's objection, and
9 allow them to come back if we're not able to resolve our
10 differences in the future and have a full hearing.

11 THE COURT: Who is your mediation with?

12 MR. HERTZBERG: Mr. Driker.

13 THE COURT: Does the UAW support this request?

14 MR. HERTZBERG: I believe they do, your Honor.

15 THE COURT: Is there anyone here from the UAW?

16 MR. MACK: Richard Mack, your Honor, with AFSCME.
17 We've actually filed objections as well over a similar issue,
18 and we do, in fact, support the request.

19 THE COURT: Are you involved or is your client
20 involved in the mediation also?

21 MR. MACK: Yes.

22 THE COURT: What time is the mediation set for?

23 MR. MACK: 9:30. I just got the e-mail a little bit
24 ago.

25 THE COURT: All right. Well, it's been the Court's

1 practice and policy when these kinds of situations arise to
2 consult with the mediator and to follow the mediator's advice
3 regarding my processes, and so that's what I'll do here, and
4 I'll get back to you.

5 MR. HERTZBERG: Thank you, your Honor.

6 MR. MACK: Thank you, your Honor.

7 THE COURT: One more thing before we get underway.
8 My apologies to you for not printing out the compilation of
9 your remaining time for today. I'm showing for the city a
10 balance of 46 hours and 53 minutes and for the objectors 67
11 hours and 9 minutes. And while we're on the subject, I want
12 to have a discussion with you all tomorrow about the extent
13 to which it is appropriate to reduce these times in light of
14 the Syncora settlement.

15 MR. SHUMAKER: Certainly, your Honor. Greg
16 Shumaker, Jones Day, for the city, your Honor. Just a couple
17 of housekeeping matters that we wanted to raise with you.

18 THE COURT: Go ahead.

19 MR. SHUMAKER: First of all, your Honor, as you
20 know, we broke last week, and the city and the objectors had
21 multiple discussions about discovery in light of the Syncora
22 settlement. I wanted to advise you -- your Honor probably
23 noticed -- that FGIC issued two 30(b)(6) deposition notices,
24 one to the city and one to Syncora. Those depositions are to
25 take place tomorrow and -- tomorrow is going be Mr. Doak's

1 deposition. He's going to be the gentleman from Miller
2 Buckfire who is the 30(b)(6) witness for the city. And --
3 I'm sorry -- M.J. is the name of the woman who was being
4 designated for Syncora. I don't know her last name. She is
5 being deposed on Wednesday, so that's proceeding apace.

6 The city also, as we informed your Honor last
7 probably Tuesday or two Tuesdays ago, put forth a
8 supplemental expert report for Mr. Buckfire, and so that went
9 out in the middle of last week, and the objectors agreed that
10 they did not want to depose Mr. Buckfire, so that took place
11 as well.

12 Another matter -- just a couple of other things. We
13 understand that the objectors, FGIC in particular, will be
14 submitting a supplemental expert report from Mr. Spencer, and
15 I believe that's going to come on Friday of this week, if I'm
16 not mistaken, and so that's also moving forward. And then
17 also the parties got together about stipulating to two
18 declarations from two witnesses at KCC, the voting tally --
19 voting tallier, and so we're putting together those
20 declarations, and we'll be able to submit those to the Court
21 later today or tomorrow.

22 The impact of UAW day on witness scheduling and
23 order I wanted to raise with your Honor. What we were hoping
24 to do is Mr. Malhotra will go today. We'll see how long he
25 takes. He will have a significant amount of testimony.

1 Obviously don't know how long cross will last. But then
2 Mr. Buckfire is scheduled to go after Mr. Malhotra. What the
3 city plans on doing is trying to move up Mr. Kaunelis, who is
4 a DWSD witness on the capital expenditures, going to move him
5 up in front because the Doak deposition is going forward
6 tomorrow. We're trying to work this so that then Mr. Doak
7 can testify after Mr. Kaunelis, and then Mr. Orr would
8 testify, so that's a slight modification to the order that
9 was currently -- that's currently in place or that the city
10 has filed. One issue, though, your Honor, because of UAW day
11 perhaps moving to keep in mind is notice to the pro se
12 objectors about Mr. Orr's appearance. Depending on how fast
13 this moves, Mr. Orr could come up sometime tomorrow, and I
14 just wanted to raise that with your Honor because I know
15 that's something your Honor has been concerned about in the
16 past.

17 THE COURT: So are you representing that if we
18 adjourn the UAW testimony or portion of the trial off of
19 tomorrow, that Mr. Doak would testify after Mr. Orr or still
20 before?

21 MR. SHUMAKER: Well, we're hoping Mr. Doak could
22 testify before Mr. Orr about the Syncora settlement so that
23 your Honor has the benefit of his before Mr. Orr gets on and
24 starts, you know, talking about why the Syncora settlement
25 was a good thing. That's why we had ordered it the way we

1 had.

2 THE COURT: It still feels a little aggressive to
3 suggest that Mr. Orr might testify tomorrow, but I do want to
4 thank you for alerting the Court to the possibility because
5 we do want to try to notify people. It will either be
6 tomorrow or Wednesday might be --

7 MR. SHUMAKER: That's fine, your Honor. Wonderful.

8 THE COURT: -- might be the message we should send.

9 MR. SHUMAKER: And then one final matter, your
10 Honor, was during the break the city took the opportunity to
11 review its exhibit list and to take a look at those exhibits
12 that with the withdrawal of the objections by the DWSD
13 parties, the counties, and Syncora, there are no longer any
14 outstanding objections to those exhibits, and -- in other
15 words, neither FGIC nor the COPs holders nor MIDDD has
16 objected to them, so we would ask that those exhibits be
17 admitted into the record pursuant to the Court's protocol
18 previously. We have a list of those. There are about 144.
19 I could read them into the record, but I also have copies
20 that I could hand up to you and proceed in that way.

21 THE COURT: Let me suggest a slightly different
22 procedure. Please share that list with the remaining
23 objecting parties, and then perhaps after lunch I can hear
24 from them on any issues arising from your request.

25 MR. SHUMAKER: Will do, your Honor.

1 THE COURT: Is that all right with you, sir?

2 MR. SOTO: Yes, your Honor.

3 MR. SHUMAKER: I think that's all I had, your Honor.
4 Thank you.

5 THE COURT: All right.

6 MR. SOTO: Your Honor, with respect to those
7 logistics -- by the way, Ed Soto, FGIC. With respect to
8 those logistics, we have --

9 THE COURT: Pull the microphone closer to in front
10 of you.

11 MR. SOTO: -- we have only an issue with the timing
12 of Doak, which we thought we had discussed with the city.
13 Mr. Doak can only be made available to be deposed tomorrow.
14 We are going to, in fact, depose him tomorrow. We did get
15 access to M.J. prior to that through the people at Syncora,
16 but we had hoped to be able to take his deposition, as we've
17 now read his 30-page expert report, prepare for his testimony
18 and then do his testimony, and we hope to be able to do that
19 on Friday, your Honor, because of the sequence of the
20 difficulty of just trying to get it all together. From a
21 timing standpoint, that's where we are.

22 One other thing, your Honor, the -- we're now -- and
23 we've informed the city of this -- working on trying to
24 obtain our fifth labor expert. We've gone through four of
25 them who were unable to appear either because of timing or

1 because of some other conflicts. We know the Court has given
2 us an opportunity to do that. We know the time is getting
3 short. We just wanted to let the Court know we're --

4 THE COURT: Right.

5 MR. SOTO: -- frantically deciding whether we need
6 that expert or if we can obtain that expert.

7 THE COURT: Mr. Shumaker, it does feel appropriate
8 to have Mr. Doak's testimony after his deposition, doesn't
9 it?

10 MR. SHUMAKER: I would agree that would be fair,
11 your Honor.

12 THE COURT: All right. Well, let's work that out
13 then.

14 MR. SHUMAKER: Yes. And part of this complication
15 is there are some witnesses can -- only can testify on
16 Friday, so we're trying to --

17 THE COURT: And Friday is a half a day --

18 MR. SHUMAKER: That's right, your Honor. That's
19 right.

20 THE COURT: -- or at least part -- we're going to
21 stop at one.

22 MR. SHUMAKER: Correct; correct. So we will
23 continue to work on that.

24 THE COURT: All right. All right.

25 MR. SHUMAKER: But the Mr. Orr issue is still out

1 there because --

2 THE COURT: Right.

3 MR. WAGNER: Your Honor, Jonathan Wagner on behalf
4 of the COPS. You may remember that if the -- when the UAW
5 hearing was scheduled, Ms. Thomas, the executive director of
6 the pension plans, was going to testify, and then we were
7 going to do our cross, so if that's -- if we're going forward
8 tomorrow, we'll do the cross tomorrow. If not, we'll do it
9 probably at the beginning of our case.

10 THE COURT: Okay.

11 MR. WAGNER: The second point is there are, I think,
12 six witnesses on the city's may call list. It would be good
13 to have a date by which we know whether those witnesses are
14 going to be called.

15 THE COURT: Any thoughts on that, Mr. Shumaker?

16 MR. SHUMAKER: I would think, your Honor, that we
17 would be in a position to tell the objectors that by the end
18 of the week. I think that's right.

19 THE COURT: Okay.

20 MR. SHUMAKER: Thank you.

21 THE COURT: Can we get underway now?

22 MR. STEWART: Your Honor, Geoffrey Stewart of Jones
23 Day for the city. The city would call its next witness,
24 Mr. Gaurav Malhotra.

25 THE COURT: Raise your right hand.

1 GAURAV MALHOTRA, CITY'S WITNESS, SWORN

2 THE COURT: Please sit down.

3 MR. STEWART: Your Honor, if I may approach, I have
4 binders and USB drives for the exhibits. Just for the
5 record, the binders are full of paper. We have five exhibits
6 which are, in fact, the EY model of the city's finances,
7 which are only in electronic form, so we've reduced them to
8 USB drives, which --

9 THE COURT: Okay.

10 MR. STEWART: -- I would bring forward.

11 THE COURT: Thank you for that, sir. You may
12 proceed.

13 MR. STEWART: Thank you, your Honor.

14 DIRECT EXAMINATION

15 BY MR. STEWART:

16 Q Mr. Malhotra, could you please give for us your name and
17 address?

18 A Gaurav Malhotra. I live in Chicago, Illinois.

19 Q Okay. And tell us if you could -- you, by the way, have
20 testified before in the court, have you not?

21 A Yes, I have.

22 Q Okay. Tell us briefly, if you could, about your
23 education.

24 A I went to -- for my undergrad to the University of Delhi
25 where I graduated with a bachelor's in commerce, and then I

1 went for my grad school to Case Western Reserve University
2 where I got an MBA in finance and business policy.

3 Q What year did you receive your MBA from Case?

4 A In 2001.

5 Q Okay. What was your first job after you received your
6 MBA?

7 A I joined Ernst & Young in the corporate finance practice.

8 Q In Chicago?

9 A In Cleveland.

10 Q In Cleveland. And how long were you with them in
11 Cleveland?

12 A I was with Ernst & Young in Cleveland for, I think,
13 approximately five years.

14 Q Okay. And then what happened?

15 A And then I moved to Michigan. I stayed here for five
16 years, again, with Ernst & Young, doing restructuring and
17 distressed M&A transactions following which the restructuring
18 practice of Ernst & Young was sold to Giuliani Capital, and I
19 continued to do restructuring advisory work there.

20 Q Okay. Let me stop you right there. You just used the
21 phrase "restructuring and distressed asset analysis." Just
22 for the record, tell us what that is.

23 A So restructuring advisory is where we help distressed
24 clients evaluate their business plans, their operations, and
25 long-term projections in order to -- how to recover as a part

1 of an overall restructuring strategy.

2 Q Okay. And then you said there came a time when that part
3 of EY's practice was sold.

4 A That is correct.

5 Q And when was it sold, and who was it sold to?

6 A In 2004 the U.S. restructuring practice was sold to
7 Giuliani Capital Advisors.

8 Q You better slow down. I'm having trouble following you.
9 It just may be the acoustics of the room. So it was sold to
10 who again?

11 A To Giuliani Capital Advisors.

12 Q Okay. All right. And did you still remain in the office
13 you'd occupied before?

14 A Yes.

15 Q And did your practice change at all after Giuliani
16 Capital Advisors purchased the practice?

17 A No. It was essentially a different name but continued to
18 do restructuring.

19 Q Okay. Did there come a time when the name changed again?

20 A Yes. The Giuliani Capital Advisors restructuring and M&A
21 practice was sold to Macquarie Capital Advisors.

22 Q Okay. And then how long did Macquarie control the
23 practice?

24 A For about three years.

25 Q What year are we up to by now?

1 A 2009.

2 Q Okay. And after that what came of the practice?

3 A Well, I was offered an opportunity to come back to Ernst
4 & Young --

5 Q Okay.

6 A -- and join the restructuring practice at EY, so I left
7 Macquarie and came to Ernst & Young.

8 Q What year did you return to EY?

9 A It was 2009.

10 Q '09. And you've been at Ernst & Young ever since?

11 A That is correct.

12 Q Been five years?

13 A Yes.

14 Q What is your title at Ernst & Young?

15 A I am a principal and a senior managing director in our
16 restructuring practice --

17 Q Okay.

18 A -- as well as I lead our central region restructuring
19 practice.

20 Q All right. And so tell the Court, if you could, the sort
21 of work your restructuring practice has involved since you
22 returned to Ernst & Young in 2009.

23 A It has involved helping distressed companies and -- in
24 terms of developing their business plans, taking some through
25 bankruptcy, involving asset sales as well as developing long-

1 term business plans for either a city or a public school
2 district.

3 Q Let me ask you just the names of some of the
4 representative private sector clients that you've worked with
5 since you returned to Ernst & Young.

6 A Schutt Sports, which we took through Chapter 11 process,
7 ongoing with Liberty Medical that we are helping with right
8 now are two that come to mind straightaway.

9 Q Now, in addition to the private sector clients, what work
10 have you done for public sector clients?

11 A On the public sector side, we have been involved with the
12 Detroit Public Schools.

13 Q And when did you start your involvement with the public
14 schools?

15 A Sometime in late 2011.

16 Q Is that ongoing?

17 A It is still ongoing in some fashion, yes.

18 Q Okay. Any other public sector clients?

19 A Yes. We've also helped two other cities in terms of
20 helping evaluate their cash flows and long-term projections.

21 Q And what cities are those, if you can disclose them?

22 A They're confidential in terms of our involvement with
23 them.

24 Q Okay. When did you begin your work for the City of
25 Detroit?

1 A Approximately just over three years ago.

2 Q And when you began your work, what was Ernst & Young
3 hired to do?

4 A Our role initially was to help the city assess its short-
5 term cash flow projections.

6 Q Okay. And what did that entail?

7 A It entailed first trying to just get a clear
8 understanding of what the city's cash position truly was for
9 the general fund and trying to break out the cash that was
10 restricted or that was related to enterprise funds, so we had
11 to sort of manually create reports based on the information
12 that was given that, to the best our ability, we could
13 ascertain what the general fund's starting cash position was
14 and from there on based on discussions with departments,
15 going through budgets, going through bank balance -- bank
16 statements, developing short-term projections to really
17 highlight what the city's cash and liquidity position would
18 be in the coming 12 months or so.

19 Q Now, you used a term a moment ago "general fund."

20 A Yes.

21 Q What is the general fund?

22 A The general fund is what essentially is the core
23 operating fund that is not related to any enterprise fund, so
24 it's where the majority of the taxes are collected and
25 services such as police and fire and budget are paid for.

1 Q And then you used the term "enterprise fund." What is an
2 enterprise fund? What's an example of an enterprise fund?

3 A Until now Detroit Water and Sewer Department has been an
4 enterprise fund in which their operations are essentially
5 break-even and not -- should not be impacting the operations
6 of the general fund.

7 Q Now, let me direct your attention to spring of last year.
8 Did there come a time in the spring of 2013 when the scope of
9 EY's work changed?

10 A Yes.

11 Q How did it change?

12 A It began to evolve in terms of expanding the outlook of
13 what the cash and revenue and expense projections were going
14 to be over a longer time frame versus looking at it on a much
15 shorter time frame.

16 Q What had been the time frame you were using?

17 A I would say all through 2011 and majority of the year
18 2012 we were looking at 12, 18, or 24 months of cash flows.
19 That was the context of what we were working within.

20 Q Okay. And how did things change?

21 A Well, they changed in which we started to go over to ten-
22 year projections and to look at what the city's financial
23 profile would look like over a ten-year time frame under a
24 couple of different scenarios, and then from there it just
25 evolved into looking at 40-year estimates in terms of what

1 the city's revenues and expenses could be over a much longer
2 time frame.

3 Q And what was the purpose of forecasting the city's
4 financial position out so long as ten years or even forty
5 years?

6 A Well, on the ten-year projections, we used that to really
7 highlight what the city's cash and deficit position would be
8 over the next ten years really to illustrate the cost and the
9 weight of the legacy liabilities the city was carrying and
10 what revenues it would have or not have in order to service
11 those liabilities, and over forty years we had wanted to
12 expand it to really ascertain the commitments that the city
13 was making to its creditors that are long-term commitments as
14 to what the potential was and how the city would make up for
15 those commitments.

16 Q Now, the city filed for Chapter 9 protection on July 18,
17 2013?

18 A That is correct.

19 Q At that time, just describe for us what was the work EY
20 was doing for the city? Just enumerate what projects EY had
21 going on.

22 A We were developing the cash flow projections in detail.
23 We were continuing to work on the ten-year plan on a
24 department-by-department basis. We were also looking at the
25 different claims information that was coming through. We

1 were assisting with the -- assisting the city's management
2 team with vendor management because of all the vendor issues
3 that were taking place, and we were really trying to develop
4 the -- at least at that point of time right around the filing
5 is what sort of funds the city would have available for its
6 unsecured obligations.

7 Q Okay. Now, in the 18 -- well, 14 months since the
8 bankruptcy filing, has E&Y added additional tasks to its
9 scope of work?

10 A We have been assisting with all those. In addition, our
11 technology teams are helping the city evaluate its HR
12 technology and ERP technology footprint, but the majority of
13 these services have been related to what I mentioned earlier.

14 Q What is the total amount of fees Ernst & Young has
15 charged or billed the city for since it began its work three
16 years ago?

17 A Over the last three-plus years, I believe we've been paid
18 roughly \$20 million in total over the -- and majority of that
19 I believe are during the bankruptcy process.

20 Q Now, do I understand correctly that the city negotiated
21 something called a holdback arrangement with Ernst & Young?

22 A Yes.

23 Q What's being held back and why?

24 A Ten percent of all of our invoices post-bankruptcy
25 separate and apart from the fee examiner holdback are being

1 held back over and above, which was an additional
2 accommodation we provided to -- provided we could wrap up the
3 bankruptcy case prior to the end of December of this year.

4 Q So if the bankruptcy case is wrapped up before December
5 31, what happens to the money that's being held back?

6 A If the case is wrapped up by December 31st, the ten-
7 percent holdbacks would be payable to EY.

8 Q And if it's not wrapped up, what happens?

9 A Those amounts are in no way payable to EY.

10 Q Now, you served as an expert witness before.

11 THE COURT: Excuse me one second. What does
12 "wrapped up" mean?

13 THE WITNESS: Your Honor, I believe our engagement
14 letter says that a plan -- it's tied to the plan of
15 confirmation date is -- has to be prior to December 31st.

16 BY MR. STEWART:

17 Q Now, Mr. Malhotra, you've testified before in this
18 proceeding and, in fact, have testified as an expert witness
19 before, have you not?

20 A Yes, I have.

21 Q Before this case, you had never served as an expert
22 witness before?

23 A No, I have not.

24 Q And fair to say that when you took on the engagement for
25 the city, no one told you it would involve being an expert

1 witness; is that right?

2 A That is correct.

3 Q But you understand that the city has designated you as an
4 expert witness for purposes of this hearing?

5 A Yes.

6 Q And you've submitted an expert report?

7 A Yes.

8 Q Now, you testified earlier that you work in the field of
9 restructuring, and tell us, since you received your graduate
10 degree, what percentage of your time has been spent in that
11 field?

12 A I would say pretty much a hundred percent.

13 Q Okay. Now, in order to be a specialist in the field of
14 financial restructuring, what sort of things does a
15 professional need to know?

16 A Have a robust knowledge of the interplay of financial
17 statements, be able to understand Excel working models to
18 take large amounts of data and to be able to analyze trends
19 as well as what are short-term events versus long-term
20 trends, is to interview management teams and to understand at
21 a very detail level, to break down large components of data
22 into smaller pieces and then once you deconstruct the data to
23 build back up with some robust assumptions.

24 Q Now, when you're dealing with a client that is a
25 municipality, what else do you need to know?

1 A I think you have to know the interplay between the
2 general fund versus enterprise funds and also how different
3 departments come together in terms of the buildup of each
4 department and the services that are being provided by
5 certain departments, and so -- as well as to really
6 understand clearly what the legacy liabilities are versus
7 core operating cash flows are, but really to understand the
8 different departments and how they come together is something
9 that's important.

10 Q What knowledge do you need to have of the manner in which
11 municipalities account for their funds?

12 A I think you have to have a pretty decent understanding of
13 the overall impact of a general fund and its transfers and
14 revenues and expenses and compared to how they break out from
15 enterprise funds overall.

16 Q And do I understand correctly that municipalities use a
17 principle called fund accounting and do not follow what is
18 often known as generally accepted accounting principles?

19 A That is correct.

20 Q What do you need to know in order to apply what you've
21 learned in the private sector to assignments in the public
22 sector when it comes to understanding their accounting?

23 A It's actually pretty straightforward in terms of the
24 principles that are applied with respect to financial reviews
25 and analyses. I would say they are very identical in terms

1 of how the auditors who deal with municipalities may deal
2 with versus situations in the corporate side may differ
3 slightly, but from a financial review standpoint, the
4 principles are pretty much similar of going through the
5 financial analytics.

6 Q Now, and since the time of the bankruptcy -- actually,
7 let me start earlier than that. In the past two years, what
8 sort of analyses -- in other words, work product -- has Ernst
9 & Young generated for the city?

10 A We have helped the city in developing ten-year
11 projections on a department-by-department basis with detailed
12 revenue and expense assumptions. We have then developed 40-
13 year projections that show on a line item basis what the
14 revenues and expenses could be predominantly for the general
15 fund, and as a part of that, we have also overlaid the
16 construct of the city's restructuring plan and its overall --
17 in terms of the settlements that have been reached with
18 various creditors, how those payments are going to be funded
19 over the next 10 and 40 years.

20 Q Okay. Now, in preparing these analyses, where do you get
21 the information that you need in order to do your work?

22 A It's a combination of places. It starts with the city's
23 management team and their core data and reports that are
24 available in the system.

25 Q And just by name, who would some of those individuals be

1 or by position? Excuse me.

2 A People like Rick Drumb from the finance department, folks
3 that we dealt with extensively, people in the treasury
4 department that we dealt with, John Hill, the CFO; Pam
5 Scales, the budget director. So I would say there are a
6 number of people that we have gone through to try and pull
7 the data together in terms of the raw data. And then in the
8 course of building up these projections, we have also relied
9 on other subject matter experts where their expertise on
10 particular topics has been taken into consideration. And
11 then we sort of build it up piece by piece to ascertain how
12 all of the information comes together before -- as we build
13 up the projections.

14 Q You used the phrase "raw data." What's an example of
15 some of the raw data you would have compiled or worked with
16 in preparing your analyses?

17 A So we have this in our financial models, but it was raw
18 data that we got from the city for 2008, 2009, '10, '11, and
19 '12 historically that was the files that they used to develop
20 their audited financial statements.

21 Q Okay. The audited financial statements were sometimes
22 called a CAFR?

23 A That is correct.

24 Q Okay. And who audits them?

25 A KPMG.

1 Q That's another large auditing firm?

2 A Yes.

3 Q Okay. Now, you'd mentioned earlier that you relied upon
4 the work of other advisors to the city.

5 A Yes.

6 Q Who are those entities or people?

7 A For pieces when it came to the quality of life, all the
8 exit financing assumptions, we had and relied upon the
9 discussions with Miller Buckfire.

10 Q Okay.

11 A When it came to developing specific revenue assumptions
12 that required our economist to be involved, I relied on Bob
13 Cline and Caroline Sallee. When it came to some of the
14 reinvestment initiatives, I relied on the information given
15 by Chuck Moore.

16 Q At Conway MacKenzie?

17 A That is correct.

18 Q Okay.

19 A When it came to understanding all of the other revenues
20 and all of the expenditure line items, it was myself and my
21 team that I was working with, and also we relied upon the
22 plan of adjustment in terms of certain other revenues that
23 were coming through as a part of the overall plan so I could
24 sit back and see how these pieces were coming together and
25 what impact they were having on the city's financial profile.

1 Q Now, you mentioned your team, and I apologize for not
2 having asked you before. How large was your team at EY?

3 A The team that I have working here is roughly about ten or
4 fifteen people at any given point of time.

5 Q Now, is there a standard methodology in your field that
6 is used to create financial models?

7 A Yes. It's generally in Excel.

8 Q Okay. Walk us through how professionals in your field
9 create financial models.

10 A So we start with the raw data that -- to the best of the
11 information that we have available from the client, and then
12 we really deconstruct it to understand what the different
13 components are of that particular buildup versus just taking
14 the high level information. We kind of understand the data
15 at a very detailed level. We look at it on a line-by-line
16 basis to understand what of that information is one-off
17 events versus ongoing trends. We have discussions with the
18 management team to understand our understanding of their data
19 to make sure that we corroborate what we think we are seeing.
20 We also then use either run rates as assumptions for short-
21 term and long-term projections as well as we overlay specific
22 changes that we know are going to happen based on discussions
23 with the management team of the client to then at a very
24 detailed level forecast changes, and then on a longer-term
25 basis also rely upon information that we have from public

1 agencies for inflation-type assumptions to overlay those
2 items that may not be specifically highlighted over the long
3 term but may grow because of an inflationary component.

4 Q What do you do to test the accuracy of this information
5 that you rely upon?

6 A We compare the raw data to the information in the audited
7 financial statements. For some of the items where we can, we
8 actually compare it to the cash receipts and disbursements
9 activity of the client to ensure that we can understand the
10 linkage between the financial statements and the cash
11 activity, and so we scrub through the data to make sure we
12 understand what the components are, and the process of the
13 interviews with the management team is in large part a
14 validation process also.

15 Q Now, a couple of times you've mentioned the computer
16 application called Excel. Just for the record, what is
17 Excel?

18 A It's a Microsoft application that helps on addition,
19 subtraction, and just basic financial analyses.

20 Q And your model is actually put into a Microsoft Excel
21 workbook?

22 A That is correct.

23 Q Okay. So tell us then how you went about preparing the
24 financial analyses that you did prepare from the information
25 that the city gave you in this case as opposed to as you do

1 it, you know, theoretically.

2 A We started with getting the raw information by department
3 for the last five years. By "raw information," I mean
4 detailed sales and expense categories that were not only
5 broken down by department but by fund because a particular
6 department could have operations that impact different funds,
7 and we started the process of first analyzing all of that
8 information on a department-by-department basis. Then we
9 actually took that department information and broke it down
10 by fund so that we could focus our efforts on all of that
11 activity across every department that was impacting the
12 general fund. Once we did that, we were then at a much lower
13 level of detail able to come up with for all of the revenue
14 and expense line items after discussions with the management
15 team what specifically items would change in a baseline
16 scenario if nothing had changed, so went through and looked
17 at the 2012-2013 information as well as the previous four
18 years to ascertain what were ongoing trends where we saw big
19 changes in either the revenue line items or the expense line
20 items, what was driving that change, and so that's where we
21 started to develop the forecast at a much more granular level
22 to understand what each department and each department's fund
23 position would be from a forecast standpoint.

24 Q Thank you.

25 MR. STEWART: Your Honor, I would proffer

1 Mr. Malhotra as an expert witness based upon his testimony
2 about his qualifications and background.

3 THE COURT: Expert witness on --

4 MR. STEWART: Issues of restructuring and financial
5 analysis, your Honor.

6 THE COURT: Any objections?

7 MR. SOTO: No objection, your Honor.

8 MR. WAGNER: No objection.

9 THE COURT: All right. You may proceed.

10 MR. STEWART: Thank you.

11 BY MR. STEWART:

12 Q If we could, Mr. Malhotra, let's now turn to the details
13 of your work. Let's begin, if we could, with Exhibit 738.
14 Do you have 738 before you, Mr. Malhotra?

15 A Yes, I do.

16 Q 738 is -- I think you've already testified about the
17 sources you relied upon in your work, but I wanted to ask you
18 in a little bit more detail about the organization of the
19 effort that led to the construction of your financial models.
20 Have you seen 738 before?

21 A Yes, I have.

22 Q And who prepared it?

23 A It was the Jones Day team along with our input.

24 Q Does this reflect in a schematic way the organization of
25 the effort that was put together in order to prepare the

1 financial analyses for the city?

2 A Yes, it does.

3 MR. STEWART: Your Honor, I would move admission of
4 738 as a demonstrative exhibit.

5 THE COURT: Any objections?

6 MR. SOTO: Well, your Honor, I see that it is a
7 chart, and I see the names. I don't see how it is a
8 schematic of what he did. I assume he will testify about
9 that at some point, so I'm wondering if he shouldn't give
10 some meat to these bones, and then I have no problem with it
11 as a demonstrative. And I certainly don't mind him using it
12 while he testifies about it.

13 THE COURT: Well, all right. Subject to that
14 connection, the Court will admit it into evidence.

15 (City Exhibit 738 received at 10:44 a.m.)

16 BY MR. STEWART:

17 Q Mr. Malhotra, so let's look at Exhibit 738. Your name is
18 in the upper left-hand corner?

19 A That's correct.

20 Q In the upper right-hand corner who appears?

21 A Kevyn Orr, Mayor Duggan, and John Hill.

22 Q And why are they in the upper right-hand corner in this
23 structure?

24 A Because they're essentially the client at the end of the
25 day that has to review and approve what we're seeing in

1 aggregate.

2 Q Okay. Now, on the left-hand side of Exhibit 738 is a
3 column entitled "revenues."

4 A Yes.

5 Q On the right-hand side a column entitled "expenditures"?

6 A That is correct.

7 Q Do I understand correctly the left-hand side lists the
8 sources of information you relied upon for revenues?

9 A That is correct.

10 Q Could you tell us then quickly what each of the persons
11 or groups on the left-hand side contributed to your analysis?

12 A Sure. So from Bob Cline from EY, the detailed
13 information that he provided us was with respect to the
14 forecasts over ten and forty years for the income, wagering,
15 and utility users' taxes under two different scenarios, and I
16 was able to take the information that Bob had provided, have
17 a number of discussions with him in terms of the assumptions
18 and look at the output that was being provided by Bob as well
19 as make sure that it was consistent with the numbers we're
20 using and overall also look at some of the public sources of
21 information that he had used with respect to the assumption,
22 so that built up the -- once we had the final information
23 from Bob, the input for the income, wagering, and utility
24 taxes.

25 Q And then below Mr. Cline is Caroline Sallee?

1 A Yes. With Ms. Sallee we did the similar process for
2 property taxes and state revenue sharing in which I went
3 through the files that they had sent over. We had
4 discussions about it and also made sure that I understood the
5 broad assumptions that were being used in addition to some of
6 the public sources of data that were being relied upon.

7 Q Okay. And the next, it's the EY restructuring team?

8 A Yes. That's essentially my day-to-day team where I
9 looked at the other revenue items and sales and charges for
10 services, some other transfers that were coming into the
11 general fund in addition to UTGO-type property tax
12 collection, so -- that were related to debt service as well
13 as the overall assumption of the DWSD revenue stream that has
14 been incorporated into the plan of adjustment.

15 Q And then city management is the next line.

16 A Yes. And this is similar to the line item up above on
17 other revenue items because there are a number of line items
18 that make up the other revenue category, and we went through
19 department by department to make sure we understood what were
20 certain run rates and what changes were being made or should
21 have been made to those line items going forward.

22 Q Now, the next two boxes are for the advisors you've
23 spoken of, Conway MacKenzie and Miller Buckfire. In a
24 nutshell, what did they -- what input did they have to your
25 work?

1 A So Mr. Moore provided us the information with respect to
2 the department revenue initiatives on a department-by-
3 department basis where I actually wanted to make sure that
4 there was no double count between the other revenue line
5 items or any of the information that Mr. Cline or Ms. Sallee
6 used compared to the information that Mr. Moore was using, so
7 that was a process to make sure that there was no double
8 counting. And from Mr. Buckfire it was the assumptions in
9 terms of the quality of life loan proceeds as well as the
10 assumptions related to the exit financing.

11 Q And, finally, what inputs were there from the plan of
12 adjustment itself?

13 A It was predominantly the proceeds from the grand bargain.

14 Q Okay. On the right-hand side under expenditures, the EY
15 team, again, what did they give you in terms of information
16 there?

17 A So I worked with my team there on looking at all of the
18 salaries and benefit costs for the active employees as well
19 as the expenditures related to the legacy liabilities of the
20 city in terms of the assumptions we used for the contingency
21 reserve, and those would be -- and the other expense
22 categories with respect to the main operating costs of the
23 city.

24 Q And actually all of the remaining boxes are people or
25 entities that you dealt with on the revenue side as well.

1 Just quickly run down what their input was to you on the
2 expenditure side.

3 A So in city management it was the input on the operating
4 expenditures as well as the information we received on debt
5 schedules to highlight the nonrestructured debt service.
6 From Mr. Moore it was the information with respect to
7 incremental costs required on a department-by-department
8 basis and the blight budget. For Mr. Buckfire it was the
9 costs and structure of the quality of life and exit
10 financing. And then in terms of the plan of adjustment is
11 where we have incorporated the settlements or the
12 potential -- the settlements that were reached with the
13 various classes in terms of what the financial implications
14 of those would be.

15 Q Thank you. And we can take that down if you'd like.
16 Now, did there come a time when you began the construction of
17 the financial model?

18 A Yes.

19 Q When? When did that start?

20 A I would say it was early part of 2013 is where we really
21 started to build out the projections over ten years.

22 Q And who was it on your team if there was only one
23 person -- or who on your team constructed the model?

24 A It was several people, but I would say two or three of
25 our analysts did the heavy lifting with respect to the actual

1 construction of the model, but we had different people build
2 up specific modules for different work streams, and that's
3 how the models came together.

4 Q How well do you know the model personally?

5 A I know it very well.

6 Q What did EY do to test the model for its completeness?

7 A For its completeness, we made sure that, "A," the model
8 was accurate, and we go through internal quality check
9 processes. I spot-checked a significant number of places in
10 the model to make sure that the accuracy was valid as well as
11 from a completeness standpoint is the sources of information
12 that we were relying upon for the input that I was able to
13 tie back to the sources of data that were used for some of
14 the assumptions.

15 MR. STEWART: Let's put up, if we could, Exhibit
16 112, and I believe that's an electronic document.

17 BY MR. STEWART:

18 Q Mr. Malhotra, we've put up on the screen here Exhibit
19 112. Can you tell us what Exhibit 112 is?

20 A Exhibit 112 is the ten-year financial projections model,
21 which I think this would be the baseline scenario.

22 Q Now, at the bottom I see a number of tabs. What do those
23 represent?

24 A Those are individual worksheets that contain information
25 either on a summary or department-by-department basis.

1 Q How many worksheets are there?

2 A I think there's over 300-plus worksheets in this model.

3 Q Okay.

4 MR. STEWART: Your Honor, I'd move the admission of
5 Exhibit 112.

6 THE COURT: Any objections?

7 MR. SOTO: No, your Honor.

8 BY MR. STEWART:

9 Q Now --

10 THE COURT: It is admitted.

11 MR. STEWART: I'm sorry, your Honor.

12 (City Exhibit 112 received at 10:52 a.m.)

13 BY MR. STEWART:

14 Q Mr. Malhotra, this is an Excel spreadsheet?

15 A Yes, it is.

16 Q And the spreadsheet itself sometimes is known as a
17 workbook?

18 A Yes.

19 Q And the pages sometimes are called worksheets; correct?

20 A Correct.

21 Q Let's go to any worksheet you'd like. Just choose one,
22 if you could.

23 A We can go to ESUM or --

24 Q Right there. Okay. Okay. Let's scroll to the center.
25 Okay. Now, the construction of worksheets is such that

1 vertically you have something called columns?

2 A Yes.

3 Q Okay. And this column is entitled "Column A"; correct?

4 A That's correct.

5 Q What's in Column A?

6 A Those are -- highlight the revenue titles and the expense
7 titles on this page.

8 Q Okay. And then across, those are called rows; correct?

9 A Yes.

10 Q What is Row 17, for example? What is that? What is
11 that?

12 A That shows general fund reimbursements.

13 Q Okay. Now, when rows and columns intersect, you have
14 something called a cell?

15 A Yes.

16 Q Let's highlight cell G-17. Now, up at the top there's a
17 box. Do you see that? There's a -- I don't know what you
18 call -- you tell me what you call it. Do you see at the top
19 there's something that says "sum," and then there's a bunch
20 of words after it or figures after it?

21 A Yes.

22 Q What is that?

23 A It's a formula.

24 Q It's a formula, and the formulas or the values of cells
25 appear in that box?

1 A That's correct.

2 Q What does that formula represent, if you can tell?

3 A It's summing up from the EDET tab, which would be the
4 detail tab, rows 21 through 23 of Column G, so this tab, for
5 instance, would be a more summary view of the detail tab on
6 the EDET tab.

7 Q Okay. So, in other words, these worksheets borrow from
8 each other?

9 A Yes.

10 Q How complex is the borrowing of one worksheet to another?

11 A In my view, it's not overly complex. I mean it's --
12 they're formulas, and once you understand the logic, it's not
13 overly complex.

14 Q Okay.

15 MR. STEWART: Let's, if we could, scroll to the
16 right just to show the number -- no -- just of the workbook
17 just to show the number of -- not the sheet, the workbook
18 itself -- just to show the number of tabs we're talking about
19 here.

20 BY MR. STEWART:

21 Q Each of those tabs, Mr. Malhotra, represents a set of
22 calculations?

23 A I would say the information on the raw data that would be
24 in the model would not be calculations, but a lot of these
25 tabs would have some calculations on them unless they're raw

1 data files.

2 Q And so the tabs we see scrolling by would be where the
3 raw data was captured or compiled?

4 A The tabs that we are looking at right now would be
5 where -- would be the output of the information that would
6 have been after the raw data had been analyzed.

7 Q Okay. And we're still scrolling. I should have asked
8 you something earlier. You're aware that the Court has
9 appointed an expert, Marti Kopacz of Phoenix, as the Court's
10 expert?

11 A Yes, I am.

12 Q What access has Phoenix had to this model?

13 A Full access of working Excel models.

14 Q In this -- in the native format as we see it here on the
15 screen?

16 A That is correct.

17 Q Okay. Now, what is done on your model to take all of
18 this raw data and put it in one place?

19 A Well, it's sort of like that summary tab that we were
20 looking at is you take all of the raw data that is developed
21 that is provided by fund by department, and you take that
22 information and then deconstruct it to basically highlight
23 for every single department how that information is then
24 broken out between each fund, so we take all of the
25 information that is given to us by every department, break it

1 down by every individual department for every single tab, and
2 then that department is further broken down into a general
3 fund component or the enterprise fund component. And then we
4 sum up all of the general fund only tabs for every single
5 department.

6 Q Now, let's turn in your book, if we could, to Exhibit
7 109.

8 MR. STEWART: And please put, Tom, if you could --

9 BY MR. STEWART:

10 Q Mr. Malhotra, could you tell us what is Exhibit 109?

11 A This is a sample of the ten-year projections of the city.

12 Q Okay. Is this the hard copy version of the model we were
13 just looking at?

14 A Yes. I believe this is the July 2nd version, so it -- I
15 think it is.

16 MR. STEWART: Your Honor, I'd move the admission of
17 Exhibit 109.

18 THE COURT: Any objections?

19 MR. WAGNER: No, your Honor.

20 BY MR. STEWART:

21 Q Could you show us --

22 (City Exhibit 109 received at 10:58 a.m.)

23 THE COURT: It is admitted.

24 MR. STEWART: Sorry, your Honor.

25 BY MR. STEWART:

1 Q Mr. Malhotra, could you show us on Exhibit 109 where
2 you'd see the summary page you described to us just a minute
3 ago?

4 A It would be on page 6 of 82.

5 Q Okay. And so that is a page where all of the data we saw
6 in the model ultimately bubbles up to to become a one-page
7 analysis?

8 A Yes. For the baseline information, that would be the
9 page that it would all sum up to.

10 Q Okay.

11 MR. STEWART: Let's now put up on the screen Exhibit
12 113.

13 BY MR. STEWART:

14 Q Mr. Malhotra, we've now placed on the screen Exhibit 113.
15 Could you tell us what is Exhibit -- what is Exhibit 113?

16 A Exhibit 113 looks like the tab from the 40-year
17 projections as the tab from what I can tell.

18 Q What's the relationship between the 40 -- is this the 40-
19 year model?

20 A This should be the 40-year model, yes.

21 Q What is the relationship between the ten-year model --
22 and what's the date, by the way, of this version of the
23 forty-year model?

24 A I believe this one is the July 2nd version.

25 Q What's the relationship between the 40-year model and the

1 10-year model?

2 A Well, the ten-year model is 300 plus tabs, so we have to
3 bring in the summary information off the ten-year into the
4 forty-year and then on a line-by-line item basis project over
5 the forty years what the revenues and expenses would be using
6 primarily the same sources I had talked about earlier, and
7 then the forty-year model was used to really illustrate
8 what -- how the city was going to pay for the overall
9 settlements it has reached with various classes, so the
10 forty-year was more of an expansion of the ten-year but
11 looking at it purely from the lens more so of how the
12 restructuring plan comes together.

13 Q Okay.

14 MR. STEWART: Now, let's put up Exhibit 111, please.

15 BY MR. STEWART:

16 Q Could you tell us, Mr. Malhotra, what is Exhibit 111?

17 A Exhibit 111 is the 40-year projections of the city.

18 Q Is this the hard copy version of the model we just looked
19 at?

20 A Yes.

21 MR. STEWART: Your Honor, I'd move the admission of
22 Exhibit 111.

23 THE COURT: Any objections?

24 MR. SOTO: No.

25 MR. WAGNER: No, your Honor.

1 MR. SOTO: No. Sorry.

2 THE COURT: It is admitted.

3 (City Exhibit 111 received at 11:02 a.m.)

4 BY MR. STEWART:

5 Q Now, during the period of time --

6 MR. STEWART: And you can take down 111 if you'd
7 like.

8 BY MR. STEWART:

9 Q During the period of time you've been preparing the
10 model, is it fair to say there have been a succession of
11 models?

12 A Yes.

13 Q And some have had different forecast periods; correct?

14 A That is correct.

15 Q And some have had different assumptions in them?

16 A Yes.

17 Q Has EY archived each version of each model?

18 A We do the best we can. There's hundreds of versions, but
19 I think most of them are saved somewhere.

20 Q Okay. Let me ask you just about a few of the models
21 leading up to where we are today, and let's start with
22 Exhibit 33. Mr. Malhotra, do you have Exhibit 33 in front of
23 you?

24 A I do.

25 Q And could you tell us what is Exhibit 33?

1 A Exhibit 33 is the original June 14th proposal for
2 creditors.

3 Q Did you prepare any part of Exhibit 33?

4 A I did.

5 Q Let's go, if we could --

6 MR. STEWART: And, your Honor, I am going -- I'm not
7 going to move the admission of the entire exhibit because the
8 witness did not prepare the entire exhibit. I would move to
9 pages he did prepare and move those into evidence and leave
10 it to another witness to get the larger document in.

11 BY MR. STEWART:

12 Q Mr. Malhotra, let's go, if we could, to page 90, nine
13 zero, of our document here.

14 MR. STEWART: It would be nine zero in the -- Tom,
15 it would be -- apparently, your Honor, I'm advised it's
16 already been admitted into evidence.

17 MR. SOTO: Your Honor, it's one of those that was --
18 the only objecting party was Syncora, and they're no longer
19 here, so we have no objection to this.

20 THE COURT: All right. The Court will admit Exhibit
21 33.

22 (City Exhibit 33 received at 11:04 a.m.)

23 BY MR. STEWART:

24 Q Okay. All right. But I'm still going to confine my
25 questions to page 90 and 91. You have page 90 of the exhibit

1 before you, Mr. Malhotra. Could you tell me, first of all,
2 what is Exhibit 190 -- I mean -- I'm sorry -- what is page
3 90? Confused myself.

4 A Page 90 shows the operating revenues and operating
5 expenditures of the general fund for the next ten years as
6 was presented in the June 13th proposal absent any
7 restructuring.

8 Q And let's just go down briefly the revenues. First of
9 all, we have various taxes and revenue sharing; correct?

10 A That is correct.

11 Q And from whom did you get those numbers?

12 A The municipal income taxes and state revenue sharing
13 would have been provided by -- the income tax would have been
14 provided by Bob Cline. State revenue sharing would have come
15 from Caroline Sallee. And the wagering taxes would have come
16 from Bob Cline, and the property taxes would have come from
17 Caroline Sallee. And the utility users would have come from
18 Bob Cline as well. I'm positive about the income taxes and
19 property taxes. I don't know about the other two if Bob and
20 Caroline were doing it for us at that point in time or not,
21 but they were for income taxes and property taxes for sure.

22 Q All right. And these were projected out for the coming
23 ten years; correct?

24 A That is correct.

25 Q And tell us how you went about being able to project

1 these numbers out for ten years.

2 A Well, we would have started by looking at each one of
3 those categories on a historical basis, so for the income
4 taxes it would have been what the city's historical
5 performance was but also, more importantly, as to where the
6 city was headed in terms of projected population and wage
7 assumptions to ascertain what the income levels were assuming
8 there were no changes in the property tax or in the income
9 tax rates. State revenue sharing, we get input even from the
10 state budget department. Wagering taxes was again based on
11 what some of the historical casino revenues were and sort of
12 using a small reduction based on the introduction of the new
13 Ohio casinos and then a one-percent growth rate over the
14 forecast period. For the sales and charges for services, it
15 would have been looking at each one of the departments in
16 detail to understand what the charges were for the services
17 being offered. Property taxes would have been developed on a
18 commercial and residential standpoint. The other revenue
19 would have also been broken down in terms of what was the
20 overall other taxes or other revenues that were not included
21 in the services above, whether it was court fines or parking
22 tickets, and then general fund reimbursements for the
23 reimbursements that come from some of the historical -- on a
24 by fund basis and even on a projected basis, and then what
25 the UTGO millage was in certain non-general fund POCs, so --

1 Q Sure.

2 A -- it was the historical information combined with the
3 forecast on a line-by-line basis.

4 Q While we're at it, could you tell us what is meant when
5 you have a line that says "general fund reimbursements"?

6 A Those are items such as reimbursements from the
7 Department of Transportation for their share of the insurance
8 costs or risk management costs, come in as a general fund
9 reimbursement, but there's a corresponding expense in the
10 operating expenditures, so there's at times a net effect for
11 some of these revenues and expenses based on how the city
12 accounts for them.

13 Q Okay. And then you have transfers in for UTGO millage
14 and non-general fund POCs. Tell us what that represents.

15 A The transfers in from the UTGO millage represents the --
16 would have represented the portion that comes in as UTGO tax
17 collections. There would be a corresponding transfer out to
18 reflect the transfer that would be made to the debt service
19 fund, so this was basically reflected to show what the
20 activity was. And also on non-general fund POCs there were a
21 certain portion of the COPs that were allocated to the
22 different enterprise funds, and we wanted to make sure that
23 those reimbursements under a base case scenario or a no
24 restructuring scenario were shown up above.

25 Q Okay. Now, the expenditures, without going into a lot of

1 detail, also done generally the same way?

2 A Yes.

3 Q At the bottom you have something called net operating
4 surplus. Just, first of all, what is it?

5 A It is the difference between the operating revenues and
6 the operating expenditures.

7 Q Okay. Let's go, if we could -- and, by the way, this was
8 presented at the June 2013 meeting with the creditors;
9 correct?

10 A That's correct.

11 Q Did you speak at that meeting?

12 A I did.

13 Q And what did you speak about at that meeting?

14 A Well, in addition to the city's precarious cash position,
15 this was one of the -- a couple of the pages that I talked
16 about that showed that on an operating basis the city was
17 actually generating potentially a \$3 billion surplus over the
18 next ten years or roughly 300 million a year without
19 accounting for any of the costs related to the city's legacy
20 liabilities.

21 Q So let's go to the next page of Exhibit 33. Is this a
22 continuation of the calculations we just looked at?

23 A Yes.

24 Q And what does this page reveal?

25 A So on this page, as we continue from the previous page

1 where we had three -- the city was projecting almost \$3
2 billion of surplus over ten years, this page showed the
3 nonrestructured costs of debt service, the POCs, the swaps as
4 they stood, the pension contributions under the assumption
5 the city was using at that point of time, under changed
6 assumptions that the city wanted to use at that point of
7 time, the ongoing costs of health benefits for retirees,
8 which in aggregate from the line items up above, it showed
9 that the city would have almost \$7 billion potentially in
10 forthcoming legacy liability expenditures over the next ten
11 years.

12 Q And you called these in this page legacy expenditures;
13 correct?

14 A Yes.

15 Q What do you mean by "legacy"?

16 A Our way of looking at the legacy expenditures was what
17 the -- the costs that were not associated with providing
18 service or operations today, so it was -- we were trying to
19 exclude the majority of the share of costs related to the
20 active employees and supplies as well as exclude the costs
21 associated with debt that the city had taken on in prior
22 periods.

23 Q Now, we have a line that says "total surplus" and then in
24 parentheses the word "deficit." What does that line
25 represent?

1 A That line represents that the -- the delta between the
2 operating surplus that we saw on the prior page, and if you
3 reduce that operating surplus by the full impact of the cost
4 of the legacy expenditures, what the delta is.

5 Q Okay. So so far in our analysis, on an operating basis,
6 the city actually had a surplus, but once the legacy
7 expenditures were taken into account, that turned into the
8 deficit we see in the middle of the page?

9 A That's correct.

10 Q Okay. And the deficit is how much projected over ten
11 years back in June of 2013?

12 A For the ten years, the projection showed in excess -- or
13 just shy of \$4 billion or roughly 390 to \$400 million a year.

14 Q Below that is a series of lines under the heading
15 "reinvestment in the city." What is that section of this
16 page about?

17 A In that section, we were showing the information that we
18 had gotten from Conway MacKenzie that was provided with
19 respect to revenue and operating expenditure assumptions on a
20 by department basis as well as capital investments and blight
21 that were at that point in time estimated for the city, which
22 in aggregate added up to about a billion dollars net.

23 Q But how could the city be spending money on reinvestment
24 when it had a deficit at the levels we see in the middle of
25 the -- of page 91?

1 A It was probably unlikely that the city would have been
2 able to.

3 Q So why did we have -- why do you have here a section
4 about reinvestment at all?

5 A Well, the reason we wanted to show it is because based on
6 the discussions we had with the city that the reinvestment
7 was a necessity. It was in order to get the city back and
8 avoid a spiral, but that was the assumption as of then.

9 Q Okay. Is this analysis, page 90 and 91, sometimes called
10 a baseline analysis?

11 A Yes.

12 Q Why is it called a baseline analysis?

13 A Because on 90 and 91 we have not incorporated any
14 bankruptcy-type provisions, so it's sort of outside of a
15 bankruptcy what the projections could look like, but it does
16 not take into impact any of the restructuring activities that
17 the city has undertaken as a part of the bankruptcy.

18 Q Okay. Thank you.

19 MR. STEWART: And we can take down that exhibit.
20 Your Honor, I'm reminded I failed to move Exhibit 113 into
21 evidence. That was the native -- in other words, the
22 electronic version -- of the 40-year forecast, and I'd move
23 it into evidence now.

24 THE COURT: Any objections?

25 MR. WAGNER: No, your Honor.

1 THE COURT: All right. It is admitted.

2 (City Exhibit 113 received at 11:15 a.m.)

3 MR. STEWART: Let's, if we could, put up Exhibit 3.

4 BY MR. STEWART:

5 Q Mr. Malhotra, Exhibit 3 is in front of you. Can you tell
6 us what is Exhibit 3?

7 A That's the fourth amended disclosure statement.

8 Q Okay.

9 MR. STEWART: And, your Honor, I believe this has
10 been admitted into evidence, although I'm susceptible of
11 correction if I have that wrong.

12 BY MR. STEWART:

13 Q Mr. Malhotra, did this disclosure statement also set
14 forth forecasts that Ernst & Young had prepared?

15 A Yes.

16 MR. STEWART: Let's go, if we could, to page 89 of
17 212, so we have to go to the appendix, Appendix A, page 89.
18 No, that's not it.

19 BY MR. STEWART:

20 Q While they're doing that, let me just ask you some
21 questions about the disclosure statement, Mr. Malhotra.

22 THE COURT: Excuse me. Excuse me just one second,
23 please.

24 MR. STEWART: Yes.

25 THE COURT: So what I'm showing is -- I'm sorry.

1 One more second. What I'm showing is that on September 9th
2 the document was admitted during the testimony of Terri
3 Renshaw but only to show what she relied upon --

4 MR. STEWART: Okay.

5 THE COURT: -- for what she did, and then I'm also
6 showing that, although Exhibit 3 was initially admitted as
7 part of the final pretrial order, that was vacated and only
8 Exhibit M to Exhibit 3 was subsequently admitted on September
9 8th.

10 MR. SOTO: Your Honor, we have no objection to the
11 admission of Exhibit 3. I think the only party that had
12 objected on the exhibit list, again, was Syncora. There's
13 some of their objections which we would adopt, but this is
14 not one of them.

15 THE COURT: All right. Would you like to offer
16 Exhibit 3 then?

17 MR. STEWART: Yes, your Honor.

18 THE COURT: All right. Exhibit 3 is admitted for
19 all purposes.

20 (City Exhibit 3 received at 11:17 a.m.)

21 BY MR. STEWART:

22 Q Now, Mr. Malhotra, I'm now going to direct you to one of
23 the appendices of Exhibit 3, page 89 of 200 and -- I think of
24 212.

25 MR. STEWART: Let's go back, if we could. Just go

1 one more page. Do you have -- sorry. It's page 99. Oops.
2 Where were we? Just next page, please, and keep going. One
3 more. Keep going. Keep going. There you go. Page 94.

4 BY MR. STEWART:

5 Q Tell us, if you could, what page 94 of 212 is on Exhibit
6 3.

7 A This would have been the same slightly updated baseline
8 scenario that was used for the disclosure statement, so I
9 believe this would be the May 5th version of the projections.

10 Q Okay. And did the disclosure statement also have a
11 comparable summary of the 40-year model that E&Y had
12 produced?

13 A I believe so, yes.

14 Q Okay. Let's move on. Let's go back, if we could, now to
15 Exhibit 109 and use the hard copy form of 109, and this has
16 been admitted into evidence. So a couple of months after the
17 disclosure statement, you had a new edition of your model?

18 A Yes.

19 Q Okay. And that's what you have before you is Exhibit
20 109?

21 A That is correct.

22 Q Now, it appears to be 82 pages long?

23 A That is correct.

24 Q Now, the cover has this red language there. Can you tell
25 me what that's doing on the cover of your model?

1 A It's our standard disclaimer.

2 Q Okay. What are you disclaiming?

3 A That the assumptions and the data are at the end of the
4 day the product of the client.

5 Q Are you disclaiming the accuracy of the model?

6 A No.

7 Q Are you disclaiming that you believe it to be an accurate
8 forecast?

9 A Yeah. Based on the assumptions, we believe this is --
10 it's accurate.

11 Q Okay. So now let's go to page 3.

12 MR. SOTO: You know, Judge, on that one -- forgive
13 me for interrupting, but I couldn't read a thing of what he
14 was -- what he had there, so I have no idea what he was
15 disclaiming, so -- and I would point that out, your Honor.

16 MR. STEWART: Well, we could go back, and can we
17 make it any bigger?

18 MR. SOTO: Could you? Thanks.

19 MR. STEWART: There we go. Probably going to have
20 to read it in halves.

21 MR. SOTO: Thank you, Geoff. Thank you, your Honor.

22 BY MR. STEWART:

23 Q If we could, let's go to page 5. And what is page 5 of
24 the model?

25 A It's a continuation of the assumptions --

1 Q Okay.

2 A -- that are being used, the primary assumptions that are
3 being used in the model.

4 Q So the beginning of the model, we set forth what your
5 assumptions are?

6 A Yes.

7 Q Okay. Now let's go to page 6. And just for the
8 record -- I think we've seen this before -- what is page 6?

9 A Page 6 is the slightly updated baseline scenario that was
10 used for the disclosure statement projections. I think it
11 was around May 5th.

12 Q Okay. So this is an updated version of the forecast we
13 saw that had also been in the June 2013 documentation;
14 correct?

15 MR. WAGNER: Objection. Leading. I think in
16 general there's been too much leading.

17 THE COURT: I agree, and that objection is
18 sustained.

19 MR. STEWART: Okay.

20 BY MR. STEWART:

21 Q How does this relate to the pages we looked at, page 91
22 of Exhibit 33?

23 A 109 is the July 2nd update of the projections, and so we
24 would have updated it since May 5th for the items that we
25 knew we had changed because it was during this time frame

1 that there were a couple of settlements that were reached,
2 but on the baseline scenario, other than some changes that we
3 would have made for new information that we would have
4 received, majority of this would have essentially remained
5 the same or close to it.

6 Q What is the next page of the exhibit?

7 A Well, on this page of the exhibit we have tried to show
8 the restructuring scenario specifically before distributions
9 are made or could be made to unsecured creditors because what
10 we have done on this page is taken the operating revenues and
11 expenditures from the prior page, eliminated majority of
12 the -- eliminated the majority of the unsecured creditor
13 payments, included in here the reinvestment expenditures to
14 show what funds the city would have available for the next
15 ten years to make payments for its unsecured creditors.

16 Q Okay. Let's look at the next page. What is this page?

17 A Page 8 of 82 on Exhibit 4. I think it is a detailed
18 version of the pages we saw two pages prior, which was the
19 summary view of the baseline. This is a detailed view of the
20 baseline.

21 Q Okay. Let's now go to page 10. This says it's a general
22 fund department detail. What is a department detail?

23 A This is how we have built up the ten-year projections, so
24 it shows the detail of the summary view and the summary
25 detail view but now being broken down by department.

1 Q Let's go to the next page then. What is page 11?

2 A This is the summary of the budget department.

3 Q That's a department of the city?

4 A Yes.

5 Q And why is this page organized the way that it is
6 organized?

7 A Because all the pages after this on every single
8 department is organized the same way.

9 Q And how many such pages are there that go through the
10 department detail?

11 A Probably 50-plus.

12 Q Let's go to one in particular just so I can ask you about
13 it, which will be page 17 of 82. This is the detail for the
14 fire department.

15 MR. STEWART: And can we blow that up so it's easier
16 to see? Just blow up the left-hand half of it. Maybe
17 that'll be easier.

18 BY MR. STEWART:

19 Q So, Mr. Malhotra, I want you to walk us through how this
20 detail was done for, in this case, the fire department.

21 A So the information that is here on the left would have
22 been the information that we would have gotten first in the
23 raw data from the city by line item, and this would have
24 probably been only for the general fund because fire just has
25 the general fund essentially, and then we would have gone

1 through actually the details that broke up the licenses,
2 permits, and charges, and the same things for sales and
3 charges for services and then looked at each one of the
4 expense categories in terms of the salaries, the overtime,
5 what the pension allocation was, the basis for the fringe
6 benefits that were allocated to the fire department, so there
7 would be another layer down in terms of the detail. And
8 based on that, we would have actually developed the
9 projections on a headcount basis for the fire department.

10 Q What part of this sheet is purely historical information?

11 A The left part, 2008 through 2012.

12 Q Okay. So let's now expand the right side so we can see
13 some of the projected information. Now, Mr. Malhotra, how
14 did you go about projecting revenue and expense items as they
15 related to the fire department?

16 A Well, when it came to the revenues, the fire department
17 does not have a lot of revenues, so we would have looked at
18 the assumptions with respect to like the first line here
19 would have been the -- I believe it would be the inspection
20 charges, but they had generally been following a consistent
21 trend, and then based on discussions with management for any
22 specific initiative that was being undertaken to increase the
23 overall fees or the inspection charges, we would have
24 increased it and then left it flat over the forecast period
25 because there was not necessarily a plan in terms of how

1 those inspection charges would continue to go up.

2 Q Now -- go ahead. Have you finished?

3 A The second line, I think, is the sales and charges for
4 services, and those, again, would be EMS fees or charges that
5 could be generated by the fire department. And, again,
6 between 12.6 and the 14.9, we would have been specifically
7 highlighting any specific initiative based on discussions
8 with the management team that were being used or looking at
9 even what those charges were historically to come up with
10 what the 2014 number would be and also for keeping that flat
11 depending on the kind of revenue initiative it was. The
12 grant revenue was essentially the SAFER grant in which we
13 knew that the city has gotten the SAFER grant extended
14 through fiscal year '15 and '16, so we left that in but
15 dropped it '17, '18, and '19 in the baseline, but when you
16 will look below in the revenue initiatives that are not shown
17 on this page, we assumed that the grant would actually get
18 renewed for two more years, but we did not want to
19 incorporate that in the baseline that's shown down below in
20 terms of the reinvestment initiatives.

21 Q Then under "expenditures," just in a nutshell, tell us
22 how you went about coming up with the numbers that we see.

23 A So the biggest line item again, which is salaries and
24 wages, that would have been developed based on -- again, we
25 have schedules in the back -- based on the assumptions of the

1 actual headcount by department. We had that historically as
2 well as the most current state, and we would have used the
3 current assumptions of the headcount at the average salary
4 level that we had been provided for that particular
5 department and forecast that over the course of the time
6 frame. And, again, we would have based headcount assumptions
7 compared to what the headcount assumptions were a few months
8 ago because there had been an ongoing attrition, and so we
9 assumed in the baseline that the attrition would be replaced
10 in the projections.

11 Q Okay. Now, at the bottom of this page -- let's go to the
12 whole page once again. What do we have in the bottom couple
13 of lines?

14 A So those are the operational restructuring and
15 reinvestment initiatives, which was the information that was
16 given to us by Conway MacKenzie on a department-by-department
17 basis, but we ensured that there was -- that these
18 expenditures were reviewed, so there was not a double
19 counting of either a revenue or an expense between what was
20 in the baseline versus not.

21 Q Okay. And this was done for how many of the city's
22 departments?

23 A All the departments that impacted the general fund.

24 Q And if we could just flip to the next page and the page
25 after that, what sort of departments do we have here? That's

1 fire. What's the next one?

2 A Health and wellness.

3 Q Do you see it on your screen, Mr. Malhotra? It may be
4 easier to see it on the screen.

5 A Yes. The health and wellness department.

6 Q And after that? And let's do the next page after that.

7 A The human resources department.

8 Q Okay. And could we go on until we've gone through every
9 department in the city?

10 A Yes.

11 Q And where were these all compiled in this forecast?

12 A All of the information for the general fund came together
13 in the summary tab, which we had looked at earlier.

14 Q That's what? Page 6 and 7?

15 A Yes. Page 6 was the baseline view, which is where all of
16 the individual departments would add up to, and then page 7
17 was more for restructured view.

18 Q Now, let's look at Exhibit -- we can put that down.

19 Let's look at Exhibit 111, and if we can go back to page 4 of
20 11. What does page 4 do?

21 A Page 4 is -- shows the projected ten-year and forty-year
22 view of the city under the restructuring view scenario, which
23 shows what funds are available to pay unsecured claims over
24 the next ten, twenty, thirty, or forty years.

25 Q Okay. All right.

1 MR. STEWART: So now let's go back to Exhibit 111
2 and, in particular, to pages 5 and 6. Sorry. Let's make it
3 page 6 actually. Is that 6? I'm losing my eyesight. I'm
4 sorry. Make it 109, page -- that's the wrong page -- make it
5 page 109 -- sorry -- Exhibit 109, page 6, please, and let's
6 highlight, if we could, the left-hand column that has the --
7 all the way down, please. There we go. Thank you. Okay.

8 BY MR. STEWART:

9 Q So I think I've already asked you, Mr. Malhotra, about
10 the sources of some of the information you have here, and I
11 believe we talked about other revenues.

12 MR. STEWART: Could we put up, if we could --

13 BY MR. STEWART:

14 Q We have sales and charges for services. Do you see that?

15 A Yes, I do.

16 Q And also other revenues?

17 A Yes, I do.

18 Q Okay.

19 MR. STEWART: Let's put up --

20 BY MR. STEWART:

21 Q I'm going to ask you about the details of sales and
22 charges for services.

23 MR. STEWART: Let's put up demonstrative Exhibit
24 716. Okay.

25 BY MR. STEWART:

1 Q And, Mr. Malhotra, what I would like to do is ask you
2 what the detail is that is behind the line that says "sales
3 and charges for services." First of all, what is Exhibit
4 716?

5 A It shows the build-up of the sales and charges for
6 services by department.

7 Q Who prepared Exhibit 716?

8 A We did.

9 Q Okay.

10 MR. STEWART: Your Honor, I'd move the admission of
11 716 solely for purposes of being a demonstrative exhibit.

12 MR. SOTO: No objection, your Honor.

13 MR. STEWART: Could we --

14 THE COURT: It is admitted.

15 (City Exhibit 716 received at 11:35 a.m.)

16 MR. STEWART: Sorry. I'm never going to get this
17 right, your Honor.

18 BY MR. STEWART:

19 Q Mr. Malhotra, could you walk us through and tell us what
20 items of revenue there are that underlie the line that's
21 entitled "Sales and Charges for Services"?

22 A Yes. The main categories are by department. The first
23 one is nondepartmental in which you have probably three or
24 four main items that are captured in there, the first one
25 being the municipal service fee. The second main item that

1 is also captured in there is the overall reimbursements that
2 come from other departments for services that are provided by
3 the general fund, so it's almost a netting out of an expense
4 with a revenue. The PLD Department also has all of -- has
5 the costs or the revenues related to its customers, which are
6 continuing to show -- go down, which is as the grid is
7 transitioned to a third party provider, the PLD Department is
8 no longer going to be collecting revenues from those
9 particular customers. The fire department is, again -- this
10 specifically relates to predominantly the fees that are being
11 charged also by EMS. That is sort of built up in the fire
12 department. The 36th District Court as well, this is related
13 to the fees that are historically charged, so -- and we can
14 go down, but those are sort of the main components of the
15 sales and charges for services.

16 Q Okay. And then if we went back to Exhibit 109, there's
17 also this category entitled -- pardon me -- "Other Revenue."

18 MR. STEWART: Let's put up, if we could, Exhibit
19 717.

20 BY MR. STEWART:

21 Q Do you have Exhibit 717 before you, Mr. Malhotra?

22 A Yes, I do.

23 Q What is Exhibit 717?

24 A Exhibit 717 breaks down the other revenues into more
25 detail in terms of how we -- the items that we had included

1 in other revenues in the summary.

2 Q Who prepared Exhibit 717?

3 A We did.

4 MR. STEWART: Your Honor, I'd move its admission as
5 a demonstrative exhibit.

6 MR. SOTO: No objection, your Honor.

7 THE COURT: It is admitted.

8 (City Exhibit 717 received at 11:37 a.m.)

9 BY MR. STEWART:

10 Q Mr. Malhotra, could you walk us through what items
11 comprise the line entry that has been entitled "Other
12 Revenues"?

13 A The items there would be other taxes, which I believe is
14 an industrial facility tax; the parking and court fines,
15 which is predominantly parking tickets; grant revenue, which
16 would be related to the grant revenues in specific
17 departments such as the SAFER grant or the COPs grant. The
18 licenses and permits would be fees charged by the building
19 department and building permits and the inspections by even
20 the fire department. The revenue from use of assets would be
21 some rental income, some one-time asset sales. The general
22 fund reimbursements would be, again, predominantly
23 reimbursements coming from the Department of Transportation
24 for paying the self-insurance funds. The transfers in from
25 UTGO would be the component of property -- of tax collections

1 that were related to the UTGO millage. The department
2 revenue initiatives would be the operating initiatives by
3 department that would be shown on a department-by-department
4 basis that would be flowing into other revenue.

5 Q Let me ask you about the transfers in for the UTGOs. Why
6 is that treated as revenue?

7 A Because there is an incoming source that is coming in in
8 terms of the taxes that are collected and then a
9 corresponding transfer, though, to the debt service fund
10 under a baseline scenario initially, yes.

11 Q And then the department revenue initiatives, I believe
12 we've talked about those before. Are those existing revenues
13 or projected revenues?

14 A Those are projected revenues coming through the
15 reinvestment initiatives. We got that line from Conway
16 MacKenzie.

17 MR. STEWART: So let's go back to Exhibit 109 and to
18 the general fund summary that we were looking at there, and
19 let's expand the lower left-hand corner. Now, we're going to
20 want to go higher up to the expense part. See the -- yeah,
21 there we are.

22 BY MR. STEWART:

23 Q What was the source of your information for the items,
24 first of all, that are salaries, health benefits, and other
25 operating expenses?

1 A On a historical basis, it would be the city's information
2 that we got on a department-by-department basis of what
3 salaries and wages were allocated by fund by department.

4 Q Okay. Let me direct your attention. The top line says
5 "salaries over time and fringe"; correct?

6 A Yes.

7 Q And that's projected out for a number of years?

8 A That is correct.

9 Q What inflation assumption did you make with respect to
10 wage inflation over that term of years?

11 A With respect to wage inflation in the first few years, we
12 used the information that was at the time being discussed
13 with the different unions with respect to five percent up
14 front in terms of the wage increase, zero following, and then
15 it was about 2-1/2, 2-1/2, 2-1/2 after that. Beyond the
16 first five years, we used a two-percent wage inflation
17 assumption.

18 Q Do you know how that compared with the wage rate of
19 inflation Dr. Cline used in his projections of income taxes?

20 A The two percent should be similar.

21 Q Okay.

22 MR. STEWART: Now, if we go further down, under net
23 operating surplus, we have -- oops -- let's see. Go, if you
24 could, back to what we -- just stay with what we had
25 originally, if you could. Thank you. You got to go to the

1 next page. Let's go to the next page, if we could. And you
2 see the upper left-hand corner? Go further down. Oops.
3 There you go. Thank you.

4 BY MR. STEWART:

5 Q Under expenses we have a variety of expenses I wanted to
6 ask you about. Let's talk about the reinvestment. You have
7 OPEB payments for current and future retirees?

8 A That is correct.

9 Q Where did those -- where did those numbers come from?

10 A For the current retirees, we had the information based on
11 what the historical performance of the city was with respect
12 to payments for its existing plans as well as some of the
13 information we would have received from Milliman on the cost
14 of the plans on a per head basis.

15 Q Okay.

16 A And for future retirees, it was based on two percent of
17 healthcare -- two percent of wages for the nonuniform
18 employees, and for the uniform employees it was a million
19 dollar fixed payment for the forecast period.

20 Q Now, let's go, if we could, to the overall sheet, to the
21 overall page that we had, and as a result of your modeling
22 exercise that you've described to us, Mr. Malhotra, have you
23 reached an opinion looking at these pages of Exhibit 109 as
24 to the reasonableness of the city's projections of its
25 revenues and expenditures for the next ten years?

1 A Yes.

2 Q What is your opinion?

3 A My opinion is based on the assumptions here, the revenues
4 and expenditures appear to be reasonable as shown here until
5 the funds available for unsecured claims that the revenues
6 and expenses seem reasonable.

7 Q Let's now go -- pardon me -- if we could, to Exhibit 111
8 and, in particular, to page 4 of 9. I believe you looked at
9 this sheet before, Mr. Malhotra. As a result of the work you
10 did that you described to us, have you reached an opinion
11 about the reasonableness of the city's forecast of revenues
12 and expenditures for the 40-year period that's set forth on
13 page 4 of 9 of Exhibit 111?

14 A Yes.

15 Q What is your opinion?

16 A My opinion is that based on the assumptions we have here,
17 these revenues and expenses appear reasonable for 40 years in
18 terms of the line item up to the funds available for
19 unsecured claims.

20 Q Thank you. Now, more recently you updated your July
21 forecast just last week, did you not?

22 A That is correct.

23 Q Let's put up -- and tell us why you updated the July
24 forecast.

25 A The primary change for that was the Syncora settlement.

1 It is why we updated the projections recently, and there were
2 some other small changes as well.

3 MR. STEWART: Let's put up Exhibit 733, please.

4 BY MR. STEWART:

5 Q What is Exhibit 733?

6 A 733 is the ten-year projections that were prepared last
7 week.

8 Q And who prepared Exhibit 733?

9 A We did in conjunction with the other advisors and the
10 city.

11 Q What was Exhibit 733 based upon?

12 A It was the same information that we had in the prior
13 versions other than an update for the Syncora settlement as
14 well as some of the timing changes based on the updated
15 information we have.

16 MR. STEWART: Your Honor, I'd move the admission of
17 Exhibit 733.

18 MR. SOTO: No objections, your Honor.

19 MR. STEWART: Let's put up 734 if we could. Your
20 Honor, I'm never going to get this right. I mean I just give
21 up. I think you should imprison me or something. I've now
22 messed this up, I think, seven times.

23 THE COURT: It is admitted.

24 (City Exhibit 733 received at 11:45 a.m.)

25 MR. STEWART: I apologize. Let's put up --

1 BY MR. STEWART:

2 Q Exhibit 734, Mr. Malhotra, is front of you. Can you tell
3 us what is Exhibit 734?

4 A 734 is the 40-year projections that were prepared last
5 week.

6 Q And why was there an update as of last week of the 40-
7 year projections?

8 A It was to reflect the -- primarily the Syncora
9 settlement, and there were other -- some small changes from a
10 timing standpoint.

11 Q What's the relationship between the recent update for the
12 40-year projections and what we saw back in July?

13 A It's the -- essentially the same data. It's just been
14 updated for the settlement and the timing of the changes.

15 Q Do these documents also exist in native format?

16 A Yes.

17 MR. STEWART: Do we have those loaded? If not, we
18 can do it after the break.

19 BY MR. STEWART:

20 Q While we're waiting for that to happen, let me ask you
21 this. Are you familiar with something in analytics called a
22 bridge?

23 A Yes.

24 Q What is a bridge?

25 A It helps compare, in my view, the previous set of

1 projections to the current set of projections.

2 Q Did you prepare a bridge to span the change from the July
3 projections to the September projections?

4 A Yes.

5 MR. STEWART: Let's put up Exhibit -- I'm sorry.
6 Let's go to page 11 of this exhibit.

7 BY MR. STEWART:

8 Q What is page 11 of our exhibit?

9 A Page 11 shows the annual changes over the next ten years
10 and forty years of the changes that were made to the July 2nd
11 projections to the most recent projections.

12 MR. STEWART: Your Honor, I'm wondering if I
13 remembered to move into evidence Exhibit 734. I'm not sure
14 that I did.

15 MR. SOTO: Your Honor, our only point on Exhibit
16 734, the witness said there were some minor -- I think he
17 called them changes. Could he describe what it is so we can
18 find them or see them? I don't have a problem with it,
19 but --

20 MR. STEWART: I'm doing it right now.

21 MR. SOTO: Is that what you're doing? Okay. Then
22 no objection, your Honor.

23 THE COURT: All right. It is admitted.

24 (City Exhibit 734 received at 11:48 a.m.)

25 BY MR. STEWART:

1 Q All right. So let's focus, if we could, on page 11 of
2 14. Please tell us how this page connects the July forecast
3 to the September forecast.

4 A So each one of these sections are highlighting the
5 changes that have been made since the July projections, so
6 the first section is the financing changes.

7 MR. STEWART: Let's blow up that left side of this
8 so we can see those all the way down. There you go. Thank
9 you.

10 BY MR. STEWART:

11 Q So please tell us what the changes were.

12 A The first section shows the financing changes in terms of
13 the assumptions on the quality of life borrowings and amount
14 of exit financing. The next section shows the changes in
15 terms of the Syncora settlement as well as other items that
16 were related to Syncora. The next section showed the 36th
17 District Court settlement, and the fourth section showed the
18 changes in terms of the timing of when the quality of life
19 proceeds were being drawn and when the expenditures were
20 made. And there's also a slight change in the contingency
21 amount based on the new borrowing. The blight timing was
22 updated. There was amount included for a draw from the
23 state-controlled escrow as well as the professional fees were
24 updated based on the latest information we had, and the
25 overall reinvestment deferrals were also updated.

1 Q Okay.

2 MR. STEWART: Let's go back to the full view, if we
3 could, again, Tom.

4 BY MR. STEWART:

5 Q And so what do these numbers mean as they're scheduled
6 across the columns of this page?

7 A The first line shows a negative number in '15 and '16
8 which essentially represents that the city is borrowing less
9 cash. The initial assumption in July was that the city would
10 borrow \$300 million in exit financing whereas the latest
11 assumption that the -- that we are using is the city will
12 only borrow \$275 million of exit financing. The line below
13 just shows the changes in the assumptions with respect to the
14 principal and interest payments for the exit financing based
15 on the latest information we had from Miller Buckfire. The
16 POC settlements show for note C the Syncora portion of note
17 C, which is a payment of roughly \$2.4 million a year for 12
18 years. There were some nonbankruptcy settlement items, which
19 was about a \$5 million cash payment, as well as the extension
20 of a tunnel lease or foregone rent from the tunnel until a
21 period of time in which it capped out at about \$8 million.
22 We also updated for increased other fund reimbursements and
23 increased DWSD revenue stream to allocate the increased cost
24 of the Syncora settlement to DWSD and the other funds because
25 they typically have about 11-1/2 percent allocation of the

1 POCs. The 36th District Court settlement was based on what's
2 in the plan with respect to the settlement of claims. It's
3 about \$2 million over the next five years. The contingency
4 was just changed to reflect the one-percent amount based on
5 updated revenues. Quality of life proceeds, in July we had
6 still assumed that we would have borrowed 52-1/2 million in
7 2014, which we did not, so we pushed it forward to 2015.
8 Also, the timing of certain expenditures that were
9 incorporated through fiscal year '14 of 131.2 million were
10 forecasted to be made in the following year in terms of when
11 the cash is really going to go out. Blight timing in terms
12 of where the city was, instead of \$100 million expense in
13 2015, it was taken down to 80, so this reflected the \$20
14 million variance for 2015 that would subsequently get caught
15 up over the following four years. We also had now shown the
16 full draw of the available escrow proceeds. While the city
17 has to continue to reserve for some self-insurance reasons,
18 there is -- the remaining balance in the escrow proceeds was
19 assumed to be drawn. We also did on an advisor-by-advisor
20 basis analysis of the invoices that the city has been
21 receiving and updated the estimate of the professional fees
22 through the end of December 2015 based on the information we
23 had from the various professionals. And then we had -- we
24 changed some of the reinvestment deferrals so increased a
25 portion of the deferrals in '16 and '17 cumulatively between

1 2017 of about 25-plus million dollars and then caught those
2 up in the subsequent years in the forecast period, so there
3 was a timing change in terms of how the reinvestments were
4 being spread.

5 Q Let me ask about the professional fees. Those increased
6 between your July forecast and your September forecast by \$52
7 million?

8 A That is correct.

9 Q How did that happen?

10 A We asked for all the professionals to give us their
11 estimates, and we wanted to -- we included them in the
12 forecast.

13 Q And who are the professionals we're talking about whose
14 projections or invoices are combined in that line,
15 "additional professional fees"?

16 A It is a combination of the city's advisors, which
17 includes the financial and the legal advisors, as well as the
18 Retiree Committee's advisors and the other advisors the city
19 has been using in this process. It included some estimates
20 through December.

21 Q Is there a detail on this document or another document
22 that sets -- that breaks that down by advisor?

23 A Yes. We have the information by advisor. It's not -- I
24 don't think it's in this document, but we have the supporting
25 schedules that break down all of the variances.

1 Q Okay. All right. So now you've told us about --

2 THE COURT: Excuse me. Do you have that here?

3 THE WITNESS: I don't have it here, but I can get it
4 over the break, but I do have it, yes, your Honor.

5 THE COURT: Please.

6 BY MR. STEWART:

7 Q Now, you've described for us, Mr. Malhotra, this bridge,
8 and so if you take all these numbers, how do they connect the
9 two forecasts?

10 A If you take the July forecast, you incorporate these
11 changes, you will get to the September forecast.

12 Q Okay. Now, we've looked at the general fund summary
13 before. It has all sorts of lines. Why are there so few
14 lines, relatively speaking, on the bridge compared on the --
15 to the general fund summary?

16 A Because these are the only line items that changed.

17 Q Okay. Now, let's go, if we could, to page 10 of this
18 exhibit. What is page 10 of the exhibit?

19 A Page 10 of this exhibit is the 40-year bridge, which is a
20 summary view of the bridge that we were just looking at in
21 detail, and it just breaks down the financing charges
22 changes, the impact of the Syncora settlement plus some of
23 the other impacts from the nonbankruptcy changes with
24 Syncora, but it's just a summary view of what we were just
25 looking at, the detail view over 40 years.

1 Q And how does it connect the July 40-year forecast to the
2 September 40-year forecast?

3 A The detail line items would be the only changes that
4 would have been made since the July forecast.

5 Q Okay. Let's, if we could, now go to Exhibit 733. Okay.
6 And this is the ten-year; correct?

7 A That is correct.

8 Q Exhibit 109 was the ten-year forecast for the -- in July,
9 and, of course, this the one in September. What differences
10 are there in the format of these two forecasts?

11 A The September forecast on Exhibit 733 is about 113 pages.
12 The July projections for the ten-year were about 82 pages.
13 The first -- the format of the first 82 pages is essentially
14 identical, but in these projections we have included just a
15 different way of looking at the numbers, so none of the
16 numbers have essentially changed, but we recut the ten-year
17 projections as well based on input that we were receiving as
18 to a more -- a simpler view of looking at the department
19 budgets post-restructuring.

20 Q Okay. And where does that simpler view begin?

21 A It should be on page 83 of this.

22 MR. STEWART: Let's go, if we could, to page 83.

23 Back up to page 82 actually first.

24 BY MR. STEWART:

25 Q So these are Appendices E to F?

1 A Yes.

2 Q Okay. So what is it that begins on page 83?

3 A So what page 83 does is it's, again, a summary view of
4 the general fund, revenues and expenditures, in which all of
5 the restructuring revenue initiatives, restructuring expenses
6 have been flown -- have been followed through by department,
7 so this is a sum of a department view again, but unlike the
8 restructuring initiatives or expenditures or revenues being
9 broken out separately or just using the historical
10 nonrestructured legacy liabilities, what we have tried to do
11 here is to show a more simplistic view of the general fund,
12 probably a more realistic view as to how the financial
13 information will come about post-restructure.

14 Q Does this analysis have a name?

15 A It's a post-restructuring view.

16 Q Have you heard the phrase used "the mayor's view"?

17 A Yes. At times we have referred to this format and
18 another format as the mayor's view because it is a better
19 format to kind of look at the overall picture.

20 Q Did the mayor ask for it to be done this way?

21 A No, not directly. We did it.

22 Q What conversations did you have with the Court's expert,
23 Ms. Kopacz, about preparing a different view to set forth the
24 data in the way you've just described to us?

25 A I mentioned to the Court's expert that this is another

1 way that we are looking at it, you know, based on some of the
2 comments that we had also read through in the report as to
3 how to make this more user friendly since we've been looking
4 at it over the evolution for the last couple of years as to
5 how to sort of make this a much more effective document going
6 forward. I'm sure there will be some more changes to the
7 format, but this is along the lines of making it more user
8 friendly going forward.

9 Q Does this view also have department-by-department
10 breakdowns?

11 A It does.

12 Q Let's go to the one for the fire department, if we could.

13 THE COURT: Actually, before we do that, let's stop
14 now for lunch.

15 MR. STEWART: Your Honor, in three minutes I can
16 wrap up this whole section --

17 THE COURT: Oh, all right. Go for it.

18 MR. STEWART: -- because it's just one page and then
19 two questions, and then we --

20 THE COURT: Okay.

21 MR. STEWART: -- move on to something perhaps more
22 interesting.

23 MR. SOTO: I don't believe it.

24 BY MR. STEWART:

25 Q Do you have the fire department before you, Mr. Malhotra?

1 A Yes, I do.

2 Q How does this compare to the sheet we looked at earlier
3 in the other view for the fire department?

4 A It should be very similar in terms of the line items, but
5 the sales and charges for services, like, for instance, in
6 2015 would be a summation of what was in the baseline plus
7 the revenue initiatives below the line that were highlighted
8 would now be captured together.

9 Q Okay. You've heard of the -- pardon me -- the phrase
10 "harmonization"?

11 A Yes.

12 Q What is harmonization?

13 A It's syncing up essentially of two different files'
14 formats.

15 Q Okay. What role does this part of the exhibit play in
16 the process of harmonization between the forecast of Ernst &
17 Young and the budgeting process of the city?

18 A I think it's the first couple of steps because 2015 is
19 going to be a transition year for the budget department as
20 well as as we continue to look at the projections, but this
21 is along the road of trying to harmonize the budget
22 department, but like I said, there will still continue to be
23 some changes the way the budget department creates the
24 budget, but this will definitely go -- be sort of the first
25 step of that harmonization process.

1 MR. STEWART: Thank you. Your Honor, if this is a
2 good time to break, this would be an appropriate time for me,
3 too.

4 THE COURT: Okay. We'll be in recess until 1:30,
5 please.

6 THE CLERK: All rise. Court is in recess.

7 (Recess at 12:03 p.m., until 1:30 p.m.)

8 THE CLERK: All rise. Court is back in session.
9 You may be seated. Recalling Case Number 13-53846, City of
10 Detroit, Michigan.

11 THE COURT: You may proceed.

12 MR. STEWART: Thank you, your Honor. Your Honor,
13 may I approach the bench, please?

14 THE COURT: Yes.

15 MR. STEWART: And may I also approach the witness?

16 THE COURT: Yes.

17 BY MR. STEWART:

18 Q Mr. Malhotra -- for the record, Geoffrey Stewart, Jones
19 Day, for the city. Mr. Malhotra, I placed before you a
20 document marked as Exhibit 767. Could you tell the Court
21 what Exhibit 767 is?

22 A This exhibit shows the breakdown of professional fees by
23 advisor for fiscal year '14 and the estimates through fiscal
24 year '15 and then the total column for professional fees by
25 advisor and also the breakdown of the variance that we had

1 spoken about earlier.

2 Q Is this a detail of fees that you testified to before the
3 lunch break?

4 A Yes, the variance of the professional fees by advisor.
5 That is correct.

6 Q Okay. And the detail that Judge Rhodes asked you to
7 prepare and bring to Court this afternoon?

8 A That is correct.

9 MR. STEWART: Your Honor, I'd move the admission of
10 Exhibit 767.

11 THE COURT: Any objections?

12 MR. WAGNER: No objection, your Honor.

13 MR. SOTO: No objection.

14 THE COURT: It is admitted.

15 (City Exhibit 767 received at 1:32 p.m.)

16 MR. STEWART: I also wanted to go back to some other
17 exhibits we spoke of this morning and move their admission.
18 Could we first put up Exhibit 757?

19 BY MR. STEWART:

20 Q Mr. Malhotra, do you see exhibit 757 on your screen?

21 A I do.

22 Q Could you tell us what Exhibit 757 is?

23 A 757 looks like the ten-year projections. I'm just trying
24 to see which version they would be.

25 Q I'm sorry.

1 A I'm just trying to figure out which version they would
2 be.

3 Q Perhaps at the bottom there would be a time or a date
4 shown on the first page.

5 A I would be able to tell if you could please go to the e-
6 summary tab. If you scroll to the bottom right, please.
7 These appear to be the September projections of the ten
8 years.

9 Q In native format?

10 A That is correct.

11 MR. STEWART: Your Honor, I'd move the admission of
12 Exhibit 757.

13 THE COURT: Any objections?

14 MR. SOTO: No objection, your Honor. I would note
15 for the record that he couldn't tell what it was from just
16 the front page.

17 THE COURT: I noticed. Okay. 757 is admitted.

18 (City Exhibit 757 received at 1:33 p.m.)

19 MR. STEWART: Let's put up 758.

20 BY MR. STEWART:

21 Q Could you tell -- if you'd like, go to the second or
22 third page of 758. Can you tell us, Mr. Malhotra, what is
23 Exhibit 758?

24 A 758 is the post-restructuring scenario which we spoke
25 about earlier from pages 83 onwards, which is a recut of the

1 ten-year financials under a different format.

2 Q Did you prepare 758?

3 A Yes.

4 MR. STEWART: Your Honor, I'd move the admission of
5 758.

6 MR. SOTO: No objection, your Honor.

7 THE COURT: It is admitted.

8 (City Exhibit 758 received at 1:34 p.m.)

9 MR. STEWART: Let's look up 759, please, 759.

10 BY MR. STEWART:

11 Q Mr. Malhotra, do you have Exhibit 759 before you?

12 A I do.

13 Q What is Exhibit 759?

14 A 759 should be the 40-year projections and should be the
15 September version, but I can just confirm if you go to the
16 40-year tab. Yeah. I believe these are the September
17 projections.

18 MR. STEWART: Your Honor, I'd move the admission of
19 Exhibit 759.

20 MR. SOTO: No objection, your Honor.

21 THE COURT: It is admitted.

22 (City Exhibit 759 received at 1:35 p.m.)

23 THE COURT: I meant to announce at the beginning of
24 court here after lunch that the mediator did recommend
25 adjourning tomorrow's proceedings relating to the UAW claim,

1 so the Court will agree to do that. Do you have a new date
2 in mind for that?

3 MR. HERTZBERG: We hadn't discussed a date, and what
4 I suggest is let's see how it goes tomorrow, and then I can
5 talk to the other side about slotting in a date and come back
6 to you.

7 THE COURT: I do want a date.

8 MR. HERTZBERG: Okay.

9 THE COURT: I don't want to leave it open.

10 MR. HERTZBERG: I'll take good care of it, your
11 Honor.

12 THE COURT: Before you leave the lectern, Mr.
13 Hertzberg -- and I don't know if you're the right person to
14 talk to about this, but we had an inquiry this morning from
15 Mr. Flynn on behalf of the Detroit Fire Fighters Association.
16 They were also scheduled for their issues tomorrow, and he
17 was asking about whether and how that was going to proceed.
18 Is that your issue or someone else's?

19 MR. HERTZBERG: I'm not aware of that issue, your
20 Honor. Let me check over here. Your Honor, could I suggest
21 that Mr. Flynn check with Heather Lennox? And we can track
22 it down, and then we can come back and report to you.

23 THE COURT: Okay. I will do that, but I will ask
24 you to try to communicate to Ms. Lennox to reach out to Mr.
25 Flynn also.

1 MR. HERTZBERG: I will, your Honor.

2 THE COURT: All right.

3 MR. STEWART: Your Honor, I'm sorry if I jumped the
4 gun even after the lunch break, but I have a note to myself
5 now stuck on the lectern which says "wait."

6 THE COURT: Always good advice.

7 BY MR. STEWART:

8 Q So, Mr. Malhotra, let me -- let's move on to a new area.
9 You understand that the city has settled with the claims of
10 some of its creditors?

11 A Yes.

12 Q What is the extent of your knowledge of those
13 settlements?

14 A It's pretty extensive.

15 Q And do you understand the city proposes to issue
16 securities as part of some of those settlements?

17 A Yes.

18 MR. STEWART: Let's put up Exhibit 728.

19 BY MR. STEWART:

20 Q Do you see Exhibit 728 before you, Mr. Malhotra?

21 A I do.

22 Q What is Exhibit 728?

23 A Exhibit 728 highlights the new notes that are going to be
24 issued as a part of the overall restructuring in order to
25 settle the claims of various classes.

1 Q Who prepared Exhibit 728?

2 A It was our team along with the Jones Day team.

3 MR. STEWART: Your Honor, I'd move the admission of
4 728 as a demonstrative exhibit.

5 THE COURT: Any objections?

6 MR. SOTO: No objection as a demonstrative.

7 THE COURT: It is admitted.

8 (City Exhibit 728 received at 1:38 p.m.)

9 BY MR. STEWART:

10 Q Mr. Malhotra, let's go, if we could, through the exhibit,
11 and at the top there's something called restructured UTGO
12 notes. Please tell us what those are.

13 A Those are the restructured unlimited tax general
14 obligation notes that will be issued in \$288 million in face
15 value and would be paid off over 14 years at various interest
16 rates by tranche, but essentially these notes are going to be
17 paid off over the same time frame and at the same interest
18 rate as the original UTGO notes.

19 Q So what about them has been restructured?

20 A The face value and the claim amount compared to the claim
21 amount.

22 Q And do you know what the original face value of the UTGO
23 claims was?

24 A The claim amount is about 388 million.

25 Q What's the next line?

1 A New LTGO bonds.

2 Q And what are those for?

3 A Those are new limited tax general obligation bonds that
4 are being issued by the city in order to settle the LTGO --
5 settle with the LTGO class, but the city does have the option
6 to pay off the entire amount in cash at emergence.

7 Q And please tell us about the face value and other terms
8 of the new LTGO bonds.

9 A The bonds would be \$55 million in face value payable over
10 23 years at an interest rate of 5.65 percent if the city does
11 not pay the -- those notes off earlier in its entirety in
12 cash.

13 Q And who will be the holders of these new notes?

14 A They would be the LTGO bondholders.

15 Q Okay. Now, below that is something called the new B
16 notes. What are the new B notes?

17 A The new B notes are new notes that are being issued as a
18 part of the plan for reaching settlement with the classes of
19 the LTGOs, the OPEBs, as well as a portion of the COPs and
20 other unsecured creditors. They would be \$632 million of
21 notes payable over 30 years at an interest rate of four
22 percent for the first 20 years and six percent for the last
23 decade, and they're going to be interest only for the first
24 ten years.

25 Q And you told us who the holders would be of the B notes?

1 A Yes. It would be a combination of the classes for OPEB,
2 LTGOs, the COPs, notes, and the other unsecured creditors.

3 Q Now, have you heard of something called a COPs reserve?

4 A Yes.

5 Q What is the COPs reserve?

6 A The COPs reserve is the -- it's a portion of the B notes
7 that was set aside in connection with the COPs litigation.

8 MR. STEWART: Let's put up demonstrative Exhibit
9 751, please.

10 BY MR. STEWART:

11 Q Do you see Exhibit 751 before you, Mr. Malhotra?

12 A I do.

13 Q Who prepared 751?

14 A We did along with the Jones Day team.

15 Q And what does 751 purport to depict?

16 A It breaks down the overall B notes of \$632 million into
17 as to how they get allocated between the different classes.

18 MR. STEWART: I'd move the admission of
19 demonstrative Exhibit 751, your Honor, but only as a
20 demonstrative.

21 MR. SOTO: No objection, your Honor.

22 THE COURT: It is admitted.

23 (City Exhibit 751 received at 1:42 p.m.)

24 BY MR. STEWART:

25 Q Mr. Malhotra, on the left-hand side we see a pie chart;

1 correct?

2 A That is correct.

3 Q What part of the pie chart represents the COPs reserve?

4 A The \$162 million.

5 Q And then there is a segment to the right, a bar chart, I
6 guess. Why is that there?

7 A That was there to illustrate as to depending on how the
8 COPs litigation plays out, how the COPs reserve would get
9 allocated between the OPEB class, the LTGOs, and the other
10 unsecured creditors.

11 Q Now, you mentioned the COPs litigation. What are you
12 referring to?

13 A There's ongoing litigation in terms of the validity of
14 the COPs.

15 Q And does that litigation affect the -- or how, if at all,
16 does that litigation affect the COPs reserve?

17 A Well, if the litigation -- from my understanding, if the
18 litigation goes in favor of the city, the \$162 million of
19 COPs reserve would be broken out pretty much between the
20 OPEB, the LTGOs, and the other unsecured creditors for the
21 most part.

22 Q And if it goes against the city, how does it get broken
23 up?

24 A If it goes against the city, the city would be reserving
25 that \$162 million of the B notes for the COPs holders.

1 Q Okay. Let's go back to Exhibit 728 now.

2 MR. SOTO: Excuse me, your Honor. Just to clarify
3 something in that last one, is that -- if you'd go back to
4 the last one --

5 MR. STEWART: Yeah.

6 MR. SOTO: It says sixth amended plan. Is that
7 what's intended there?

8 MR. STEWART: Let me ask.

9 BY MR. STEWART:

10 Q Mr. Malhotra, this says sixth amended plan, does it not?

11 A Yes, it does.

12 Q Do you know why it says sixth amended plan?

13 A This chart did not reflect on this particular page the
14 component of the COPs reserve that gets crystallized for
15 Syncora as a part of the seventh amended plan, so that
16 portion would change to reflect the Syncora settlement.

17 Q This is how things stood before there was a Syncora
18 settlement?

19 A That is correct.

20 Q Now, if we could go back to 728. Right. We're back to
21 728, and there's a category called new C notes. What are the
22 new C notes?

23 A The new C notes are new notes that are being issued for
24 Syncora in a face value of \$21 million that would be payable
25 over 12 years at an interest rate of five percent, so it's

1 approximately \$2.4 million a year.

2 Q Is there a particular stream of revenue that is pledged
3 to service the new C notes?

4 A I don't know if there's a revenue item that's
5 particularly pledged, but it is tied into some parking, but I
6 don't know if the parking revenue is pledged.

7 Q So let's look at the balance of 728. In the lower left-
8 hand corner we have a pie chart that says face value. What
9 is that intended to reflect?

10 A That reflects all the new notes that are going to be
11 issued under the plan.

12 Q And to the right there is a bar chart that says "debt
13 service." What is debt service intended to depict here?

14 A It shows the cost of servicing the new notes that are
15 being issued over the next approximately 40 years.

16 Q Okay. So could you walk us through the bar chart and
17 show us -- the bars are segmented by color, are they not?

18 A Yes.

19 Q If you could please walk us through the chart to show us
20 how the debt service depiction works here.

21 A So the first column or the first decade really from 2014
22 to 2023, lion's share of that debt service is the UTGO bonds
23 because, as I mentioned earlier, they're getting -- going to
24 get repaid over 14 years consistent with their original
25 repayment schedule, so the yellow gets -- UTGO bonds get paid

1 off in the first decade, and then there's a sliver in the
2 second decade. The second component is the LTGO bonds, which
3 is in purple, and in the assumptions that we have in the
4 projections, the city is assuming that the \$55 million will
5 be paid off in cash at emergence versus being paid off over
6 23 years, which is why that is only in the first stack chart.
7 The third section, which is the section in orange, represents
8 the servicing of the B notes, and the reason that is smaller
9 in the first ten years compared to the next two columns is
10 because that -- the new B notes are interest only for the
11 first ten years, and the last sliver is the new C notes,
12 which are getting paid off over 12 years, which is why we
13 have the stack in the first column and a small amount in the
14 second decade.

15 Q And then starting in year 2034 and thereafter, what
16 notes, if any, are still being serviced?

17 A At '34 and onwards it's only the new B notes that are
18 being serviced.

19 Q Okay. All right.

20 MR. STEWART: Thank you. You can take that down.

21 BY MR. STEWART:

22 Q Now, I think I've asked you about settlements the city
23 has reached with creditors, and let me go through them now.

24 MR. STEWART: Let's put up Exhibit 718.

25 BY MR. STEWART:

1 Q Do you see demonstrative Exhibit 718, Mr. Malhotra?

2 A Yes, I do.

3 Q Who prepared this exhibit?

4 A We did along with the Jones Day team.

5 Q And very briefly, what is it? What does it purport to
6 depict?

7 A It shows a summary of the settlement of the Class 7
8 claims and also shows what the claims actually were.

9 Q And do I understand correctly Class 7 claims are the LTGO
10 claims, the LTGO claims?

11 A Yes.

12 Q Please walk us through this, the terms of the settlement.

13 A So as a part of the settlement, the LTGO class is going
14 to get new LTGO bonds.

15 Q Actually, stop.

16 MR. STEWART: Your Honor, I move into evidence as a
17 demonstrative exhibit Exhibit 718.

18 MR. SOTO: No objection, your Honor.

19 BY MR. STEWART:

20 Q Sorry I interrupted you, Mr. Malhotra.

21 THE COURT: It is admitted.

22 (City Exhibit 718 received at 1:49 p.m.)

23 BY MR. STEWART:

24 Q Now, could you walk us through Exhibit 718?

25 A Yes. The settlement on -- with Class 7 is essentially to

1 settle the claims of the LTGO bondholders on the series that
2 are listed here. As a part of the settlement, the class is
3 going to get new LTGO bonds in the amount of \$55 million. In
4 addition, as a part of the settlement with Syncora, there is
5 a portion of the COPs reserve that now -- that was initially
6 being attributable to the LTGO notes that gets crystallized
7 and is given, and the LTGO class is given new B notes. So
8 essentially it's \$55 million of new LTGO bonds and \$4.2
9 million of B notes assuming a Syncora settlement in exchange
10 for \$164 million of claims. The interest is 5.65 percent on
11 the new LTGO bonds, and it is four to six percent on the B
12 notes, as I mentioned earlier, with a maturity of 23 years
13 for the new LTGO bonds and 30 years on the B notes. However,
14 the city is going to in its current assumptions pay the \$55
15 million with the exit financing in settlement of the new --
16 with the LTGO class.

17 Q Now, in the lower right-hand corner is a circle that says
18 "recovery illustrative." Could you tell me what that is?

19 A That shows under a five-percent discount rate what sort
20 of recovery is generated in the -- as a part of the
21 settlement against the claims of Class 7.

22 MR. STEWART: Let's put up Exhibit 719, please.

23 BY MR. STEWART:

24 Q Mr. Malhotra, do you see Exhibit 719 before you?

25 A Yes, I do.

1 Q Who prepared Exhibit 719?

2 A We did with the Jones Day team.

3 Q What does this represent?

4 A This represents the settlement with Class 8, the
5 unlimited tax GO bonds claims in which the existing claim is
6 being restructured as new -- as restructured UTGO bonds.

7 Q Let me stop you there so I can move the admission of our
8 exhibit.

9 MR. STEWART: Your Honor, I'd move the admission of
10 Exhibit 719 as a demonstrative exhibit.

11 MR. SOTO: No objection, your Honor, as a
12 demonstrative.

13 MR. WAGNER: No objection.

14 THE COURT: It is admitted.

15 (City Exhibit 719 received at 1:52 p.m.)

16 BY MR. STEWART:

17 Q Please continue, Mr. Malhotra.

18 A The face value of the new notes is -- of the new
19 restructured UTGO bonds is going to be \$288 million, and the
20 interest rate and the maturity of the these bonds will be the
21 same as it was as the original UTGO bonds. They will be paid
22 over the course of approximately 14 years consistent with the
23 way they were being scheduled to be paid off earlier, and
24 there is a portion of stub UTGO bonds that is reinstated, but
25 that's not a part of the settlement, but the overall

1 settlement of the UTGO bonds is the \$288 million.

2 Q What happens to the stub UTGO bonds that have been
3 reinstated?

4 A The stub UTGO bonds that are reinstated are broken down
5 into two components. They, too, will be being paid
6 consistent with the collections from the UTGO tax millage.
7 The 20 million of those bonds will be paid into the income
8 stabilization fund, and approximately \$23 million will be
9 paid into the General Retirement System.

10 Q What is the income stabilization fund?

11 A It's a fund that has been established to assist those
12 retirees whose pension does get cut and who are below certain
13 income threshold levels in order to provide assistance to get
14 their income back to either the level it was pre-cut or back
15 to a threshold level.

16 Q Now, once again, in the lower right-hand corner we have a
17 circle speaking of recoveries. What is that?

18 A That shows the illustrative recovery using a five-percent
19 discount rate.

20 Q And what is the recovery?

21 A Seventy-four percent.

22 Q Seventy-four percent of what?

23 A Of their claim.

24 MR. STEWART: Let's put up 737 now.

25 BY MR. STEWART:

1 Q Mr. Malhotra, you have Exhibit 737 before you. Who
2 prepared this exhibit?

3 A We did along with the input from the Jones Day team.

4 Q And what does it represent?

5 A It represents the settlement with Syncora of Class -- of
6 part of Class 9.

7 MR. STEWART: Your Honor, I would move the admission
8 of Exhibit 737 as a demonstrative exhibit.

9 MR. SOTO: No objection, your Honor.

10 THE COURT: It is admitted.

11 (City Exhibit 737 received at 1:55 p.m.)

12 BY MR. STEWART:

13 Q If you could, Mr. Malhotra, please walk us through
14 Exhibit 737 and what it depicts.

15 A It shows that the settlement with Syncora is -- in
16 exchange for their claim is going to be -- take the form of
17 new B notes in the amount of \$23-1/2 million, which would
18 essentially be coming out of the COPs reserve and at an
19 interest rate of four to six percent and payable over 30
20 years consistent with the overall B notes. In addition,
21 Syncora will be getting new C notes in the face value of
22 \$21.3 million at a five-percent interest rate payable over 12
23 years. In addition, Syncora will also receive as a part of
24 the bankruptcy settlement credits in the nominal amount of
25 \$6.3 million.

1 Q Credits to do what?

2 A My understanding is it's credits that can be used in
3 terms of purchases of real estate down the road.

4 Q Okay. And then what's the illustrative recovery for
5 Syncora?

6 A The illustrative recovery including the \$6.3 million of
7 credits, assuming those are at par, was 13 percent.

8 Q Okay. Now, you had mentioned that when it came to the B
9 notes, the 23.5 million came from the COPs reserve.

10 A That is correct.

11 MR. STEWART: Let's put up, if we could, Exhibit
12 727.

13 BY MR. STEWART:

14 Q Could you tell me, first of all, what is Exhibit 727?

15 A 727 shows the breakdown of the new B note -- of the B
16 notes of \$632 million and who the holders of those B notes
17 will be.

18 Q Okay. Now, in the pie chart on the left a segment has
19 been pulled out. What does that segment represent?

20 A On the left that segment represents the original COPs
21 reserve is the one that is in brackets.

22 Q Okay. And then the -- that's the COPs reserve, but it's
23 been subdivided now. Can you tell me why it has been
24 subdivided?

25 A It's been subdivided because there's a portion of the

1 COPs -- original COPs reserve in the amount of \$24 million
2 that's going to now become B notes for Syncora. That
3 remainder of the COPs reserve that was initially reserved for
4 Syncora in the amount of \$15 million is now split between the
5 OPEB and LTGO classes, so the \$15 million is broken down
6 between OPEB and LTGOs. Syncora gets its \$24 million, and
7 \$123 million remains in the COPs reserve.

8 Q How does this splitting of the \$15 million differ from
9 the original allocation of the COPs reserve among OPEB, LTGO
10 and the other unsecured creditors?

11 A I believe it is higher. The split of the \$15 million is
12 higher in favor of the OPEB and the LTGOs compared to the
13 previous split.

14 Q Now, the purple segment of our chart says 123 million.
15 What does that represent?

16 A That represents the remaining COPs reserve.

17 Q And who are the claimants, to your understanding, on the
18 remaining part of the COPs reserve?

19 A My understanding is it's in litigation, and it's with
20 FGIC.

21 Q So FGIC seeks it, but if FGIC doesn't get it, it goes to
22 these other people?

23 A That is my understanding.

24 Q Now, before we move from Class 9, let's go back, by the
25 way, to -- let's just leave it here. You understand, do you

1 not, that under the plan FGIC is also put into Class 9?

2 A That is correct.

3 Q What is the status, if any, to your knowledge, to the
4 extent you're free to disclose it, of FGIC's possible
5 settlement with the city?

6 A My understanding from reading the seventh plan is that
7 FGIC has an option to opt into a similar settlement as or the
8 same settlement as Syncora, but I don't know all the details.

9 Q If FGIC did opt in, what would the effect be on the COPs
10 reserve?

11 A If they were to opt in under the same structure, a
12 portion of that \$123 million would get allocated to FGIC, and
13 the remaining portion at a certain percentage would -- my
14 guess is get allocated between the unsecureds, the LTGOs --

15 MR. SOTO: Objection, your Honor. I don't think
16 he's here to guess.

17 MR. STEWART: Okay. We can move on. That's fine.
18 Let's put up Exhibit 720.

19 BY MR. STEWART:

20 Q Do you see Exhibit 720?

21 A I do.

22 Q What is Exhibit 720?

23 A 720 shows the settlement with the -- with Class 12, the
24 OPEB claims.

25 Q And who prepared 720?

1 A We did with the Jones Day team.

2 MR. STEWART: Your Honor, I'd move the admission of
3 Exhibit 720 as a demonstrative exhibit.

4 MR. SOTO: No objection.

5 THE COURT: It is admitted.

6 (City Exhibit 720 received at 2:01 p.m.)

7 BY MR. STEWART:

8 Q Please describe for us, Mr. Malhotra, what is set forth
9 in Exhibit 720.

10 A On Exhibit 720 shows the settlement with the -- with
11 Class 12, and it shows that the original claim of four
12 point -- in exchange for the original claim of \$4.303
13 billion, which represented the OPEB claim pursuant to the
14 settlement, the settlement is going to be \$450 million of B
15 notes contributed to GRS and PFRS VEBAs in total and also as
16 a -- pursuant to the Syncora settlement, \$11 million of
17 additional B notes that would be coming out of the COPs
18 reserve.

19 Q So let me stop you there. What is a VEBA?

20 A It's a voluntary employee beneficiary association trust.

21 Q And what does a VEBA do?

22 A It's supposed to go forward, manage the benefit plans for
23 the retirees or the employees that it is set up for.

24 Q And do I understand correctly all of the value going to
25 Class 12 is in B notes?

1 A That is correct. There are some other start-up costs,
2 but the value that is going to the VEBA trust is in the form
3 of B notes.

4 Q Now, on the amount line, we have on the right-hand side
5 the 11.0 million. Tell us where those B notes come from.

6 A They come from the original COPs reserve -- from the
7 original COPs reserve, from the portion that was left behind
8 after the Syncora settlement.

9 Q And is that consistent with the exhibit we looked at a
10 minute ago that showed how it was broken up?

11 A Yes. That's the breakdown of the \$15 million.

12 Q Please let's go to the line about interest. Tell us,
13 please, what is the interest relating to the B notes?

14 A It is four percent for the first two decades and six
15 percent for the last decade.

16 Q And maturity?

17 A It's 30 years.

18 Q And under "other" you have a few items. Please tell us
19 what those are.

20 A That shows certain start-up costs that are also going --
21 are benefitting the VEBA, which is \$8 million from the rate
22 stabilization fund and approximately \$3-1/2 million from
23 charitable contributions as well as advance of the October
24 2015 interest on the excess B notes to be advanced earlier.

25 Q Why were these start-up costs added as part of the

1 settlement with Class 12?

2 A It's a part of the settlement to essentially get the
3 VEBAs going.

4 Q Okay. And what's the recovery of Class 12 as you
5 calculated it?

6 A Ten percent.

7 MR. STEWART: And we can take that down. Actually,
8 no. Before you take it down -- sorry about that -- put up
9 721 or take that down and put up 721.

10 BY MR. STEWART:

11 Q What is Exhibit 721, Mr. Malhotra?

12 A 721 shows the nominal dollars and as a percentage of
13 general fund revenue, the comparison of both costs and
14 percentage both post-restructuring and before restructuring
15 in terms of what the trends were over the next 20 years.

16 Q Who prepared Exhibit 721?

17 A We did.

18 MR. STEWART: Your Honor, I'd move the admission of
19 Exhibit 721 as a demonstrative exhibit.

20 MR. SOTO: No objection as a demonstrative.

21 THE COURT: It is admitted.

22 (City Exhibit 721 received at 2:05 p.m.)

23 BY MR. STEWART:

24 Q Mr. Malhotra, let's focus on 721. There are two
25 different sets of bars and two different sets of lines.

1 First of all, if you could tell us what the bars represent in
2 the exhibit.

3 A The pink or orange bars that are on that chart represent
4 the projected payments on retiree healthcare obligations for
5 the existing retirees and forthcoming retirees over a 20-year
6 period.

7 Q Where did these projections come from?

8 A We got the inflation assumptions with respect to retiree
9 healthcare from Milliman, and we used the count of retirees
10 that we had.

11 Q All right. So the top bars, they show what for each
12 year?

13 A Show what the retiree healthcare payments would have been
14 absent a restructuring.

15 Q Okay. And then below that we have a line. What does
16 that line represent?

17 A The line represents what those payments for retiree
18 healthcare are as a percentage of general fund revenue as to
19 how it was going to continue to increase over the next 20
20 years.

21 Q So, for example, what would the number be for 2026 as a
22 percentage of general fund revenue absent restructuring?

23 A It would show that absent the restructuring the retiree
24 healthcare as a percentage of general fund revenue would
25 approximately be 23 percent, so 23 cents of every dollar

1 would be used to fund retiree healthcare.

2 Q So now let's look at the lower part of the chart. First
3 of all, explain to us what the bars mean. I guess they're
4 light blue.

5 A The light blue represents the portion of the B note that
6 is the city's obligation going forward in terms of this class
7 is going to be -- is shown in the blue chart. In addition,
8 we have added the ongoing potential cost of retiree
9 healthcare for active employees that will be retiring in the
10 future to ensure we can do an apples to apples comparison.

11 Q Why is the number higher in 2015 than it is in 2016?

12 A Because the existing run rate that the city is on for
13 fiscal year '15 was slightly higher than January 1, 2015,
14 when the city transitions to the new VEBA plans.

15 Q Why does it rise as it does in 2026?

16 A That's because that's when the city starts servicing the
17 principal on the B note, and we wanted to make sure that we
18 can show that it's not just the first ten years where it was
19 more of an interest only comparison but going forward 2026
20 onwards once we -- once the city is servicing the principal
21 on the B notes, what that delta still is.

22 Q Explain for us, if you would, the -- looks like a green
23 line across the bottom of the chart.

24 A It shows the retiree healthcare costs as a percentage of
25 revenue, general fund revenue.

1 Q So as a result of the settlement with the OPEB class, how
2 have the city -- how has the city's exposure to OPEB cost
3 changed?

4 A The city, as a part of the settlement, is not exposed to
5 OPEB costs any longer other than for the commitments that the
6 city is making to provide an amount -- a nominal amount for
7 its active employees and what their retiree healthcare plans
8 would be or their healthcare contribution would be, but in
9 terms of the city's obligations for its existing retirees,
10 the city's obligations are limited to it servicing the B
11 notes.

12 MR. STEWART: Let's put up Exhibit 722.

13 BY MR. STEWART:

14 Q Could you please tell us what is Exhibit 722?

15 A It is a settlement with Class 17 claims for the 36th
16 District Court.

17 Q And who prepared Exhibit 722?

18 A It was the Jones Day team primarily with some input from
19 us as well.

20 MR. STEWART: Your Honor, I would move the admission
21 of 722 as a demonstrative exhibit.

22 MR. SOTO: No objection.

23 MR. WAGNER: No objection.

24 THE COURT: It is admitted.

25 (City Exhibit 722 received at 2:10 p.m.)

1 BY MR. STEWART:

2 Q Please describe to us, if you could, Mr. Malhotra, the
3 settlement with Class 17 as set forth in our exhibit.

4 A It shows that as a part of the settlement in the claims
5 that were approximately \$6 million for those claims that are
6 less than \$100,000, 33 percent of the claim would be paid in
7 cash at emergence, and for those individual claims that
8 are -- or those claims that are greater than \$100,000 each,
9 33 percent of the claims would be payable in five equal
10 annual installments at -- and there's a simple interest rate
11 of five percent.

12 Q And what's the illustrative recovery of Class 17?

13 A Thirty-three percent.

14 Q I don't know if I remembered to ask you what the
15 illustrative recovery was of Class 12.

16 A Ten percent.

17 Q Do you remember what that was? How much?

18 A Ten percent.

19 Q Ten percent. Okay

20 MR. STEWART: We can take that down.

21 BY MR. STEWART:

22 Q Let me move to ask you about something else. Among other
23 things, what occasion did you have to look at the city's
24 pension liabilities?

25 A We've looked at the city's pension liabilities,

1 especially over the course of the last year, last 18 months.

2 Q Let's go back to Exhibit 33 and, in particular, to page
3 91. I believe we looked at this page before today. This is,
4 Mr. Malhotra, a page from the proposal to creditors of June
5 of last year that you talked about earlier. What analysis
6 had you done as of that time of the city's exposure to
7 pension liabilities?

8 A At that point in time, the main work that was done with
9 respect to the pension liabilities was under a variety of
10 assumptions like the changes in the rate of investment return
11 or the amortization period of the unfunded liability, what
12 the city's required contributions would be over the next ten
13 years.

14 Q And what had you found that those contributions would be
15 in 2023 as matters stood back in June of 2013?

16 A Based on the assumptions that were being used for the
17 preparation of this report, the pension contributions were
18 going to be close to \$3 billion under the assumptions that
19 were being used for this report.

20 Q So has the city reached a settlement with the Retirement
21 Systems?

22 A Yes.

23 MR. STEWART: And just for the record, let's put up
24 Exhibit 723. Maybe that will be simpler.

25 BY MR. STEWART:

1 Q Do you see Exhibit 723, Mr. Malhotra?

2 A I do.

3 Q What is this?

4 A It shows the key items of the settlement with GRS and
5 PFRS as a part of the plan of adjustment.

6 Q Okay. And just for the record, could you tell us what
7 are GRS and PFRS?

8 A The General Retirement System and the Police and Fire
9 Retirement System.

10 Q Do you know off the top of your head what class each is
11 in?

12 A Class 10 and 11.

13 Q Now, tell us --

14 MR. STEWART: Your Honor, if I could, I would move
15 the admission of Exhibit 723 as a demonstrative exhibit.

16 MR. SOTO: No objection, your Honor.

17 MR. WAGNER: Yeah. No objection as a demonstrative.

18 THE COURT: It is admitted.

19 (City Exhibit 723 received at 2:14 p.m.)

20 BY MR. STEWART:

21 Q Mr. Malhotra, could you explain to us what is set forth
22 on Exhibit 723?

23 A Yes. It shows the components of some of the changes
24 between what the assumptions were and what the funding status
25 was of the -- each of the pension plans compared to where

1 they are as a part of the plan of adjustment.

2 Q Okay. Let's start at the top. There's something called
3 an assumed rate of return. Please tell us how that has
4 changed.

5 A That has changed from 7.9 percent for GRS and eight
6 percent for PFRS to 6.75 percent for GRS and PFRS, which is
7 fixed for the next -- through 2023.

8 Q And do you know how the rate of 6.75 percent was derived?

9 A It was a part of the settlement.

10 Q Below that is UAAL?

11 A That's right.

12 Q First of all, what is UAAL?

13 A That's the unfunded actuarial accrued liability.

14 Q And please describe to us what this part of the
15 demonstrative shows.

16 A It shows that the pre-petition UAAL for GRS and PFRS was
17 about 1.879 billion and 1.25 billion respectively, so
18 collectively roughly about \$3.1 billion, and as of June 2013
19 and as a part of the plan of adjustment, the June 2014 UAAL
20 is 894 million for GRS and 553 million for PFRS.

21 Q And then underneath that it says "Target." How did those
22 targets come to be calculated?

23 A Those were calculated overall as the UAAL that would be
24 remaining based on the targeted funding percentage status, so
25 70 percent for GRS and 78 percent for PFRS.

1 Q And that takes us to the next line, which is funding
2 status. What does the term "funding status" mean?

3 A Funding status means the overall comparison of the assets
4 in the plan to the liabilities in the plan.

5 Q And what -- tell us -- walk us through what the funding
6 status percentages were and what they are projected to
7 become.

8 A They were 53 and 71 percent, and the target is by 2053 to
9 have these plans fully funded.

10 Q Do you know what the funding percentage is today?

11 A I believe it's pretty close to the target as of 2023, but
12 that's what I believe it is.

13 Q Do you know why today's funding status is so close to the
14 target in 2023?

15 A Well, the assets have returned better, so the assets have
16 done better than what -- so the funding status has improved
17 since June of 2013.

18 Q Do you know of a term called "defunding" as it applies to
19 retirement systems?

20 A I have a general understanding.

21 Q What, if anything, is going on with these retirement
22 systems in terms of defunding in the coming years?

23 A In the coming years, from the information that I have
24 seen, there's going to be ongoing defunding of these plans
25 based on the contributions that are going in relative to the

1 assets that are coming out of the pension systems.

2 Q And do you know why that is?

3 A It's the nature of the demographics and the profiles of
4 the plan.

5 Q Our next line says "POA liability reduction." Could you
6 tell us what that's -- what that describes?

7 A That describes some of the changes that have taken place
8 as a part of the overall plan of adjustment in each one of
9 the plans.

10 Q Okay. So what does "plan freeze" mean?

11 A It means that there's no more accrual of benefits under
12 these plans, so they are frozen, which has an impact of
13 reducing the liability of the plans.

14 Q And then there's a reference to monthly pension
15 reduction.

16 A Yes.

17 Q Can you tell us what that is?

18 A In GRS that's a 4-1/2 percent cut in the actual pension
19 checks that are going out, and there's no change in that
20 under PFRS, which also has an impact from a liability
21 reduction standpoint as a part of the plan of adjustment.

22 Q Okay. And then there is a reference to COLA. Is that
23 cost of living allowance?

24 A Yes.

25 Q What has happened to the cost of living allowance?

1 A It has been eliminated for GRS, and it has been reduced
2 by 55 percent for PFRS.

3 Q And then finally it's -- there's something called an ASF
4 recoupment. What is that?

5 A That is basically some of the excess interest that was
6 earned that is being transferred back into the General
7 Retirement System in the neighborhood of \$200 million.

8 Q Then at the bottom we have the segment entitled "Future
9 Contributions." Please tell us what those are and, more
10 importantly, how you calculated them.

11 A Those contributions through 2023 are 719 million and 261
12 million, and the majority of that funding is coming through
13 either the contributions through the grand bargain or from
14 the DWSD contributions, and beyond 2024 to 2053, that shows
15 the contributions required to amortize the UAAL at the end of
16 2023 as to what the cost would be assuming a 6.75-percent
17 interest rate. And majority of those contributions, though,
18 would be paid by the general fund, although there will still
19 be some portion through 2024 in that decade from external
20 funding.

21 Q And so the total of future contributions turns out to be
22 what?

23 A Through 2023 it is just shy of a billion dollars, and
24 then from 2024 to 2053, the nominal dollars over that time
25 frame are roughly \$2-1/2 billion, \$2.8 billion.

1 Q And so the total at the very bottom of the contributions
2 the city is facing turns out to be what?

3 A Just about \$3.8 billion.

4 MR. STEWART: So let's put up Exhibit 732.

5 THE COURT: Excuse me. Before we leave this one --

6 MR. STEWART: Sorry.

7 THE COURT: Thank you. What does the phrase we see
8 here, "equivalent to 8.8-percent reduction in liability,"
9 mean?

10 THE WITNESS: Your Honor, it means that as a part of
11 the overall changes from the ASF recoupment, the actual GRS
12 liability has been reduced by approximately \$200 million.

13 THE COURT: What is 8.8 percent? What is that a
14 percent of?

15 THE WITNESS: It would be a percentage of the actual
16 total accrued liability, your Honor, versus just the UAAL.
17 It would be the accrued liability in its entirety.

18 THE COURT: Does the plan commit the city to make
19 the payments in your section of the chart here called "Future
20 Contributions"?

21 THE WITNESS: Those contributions are assumed in the
22 plan, your Honor, and the city --

23 THE COURT: They are what?

24 THE WITNESS: They are assumed to be made in the
25 plan, your Honor, so the city is in the projections making

1 those payments beyond 2024 into the pension systems in the
2 plan.

3 THE COURT: My question was a slightly different
4 one. Does the plan commit the city, legally commit the city
5 to make those payments?

6 THE WITNESS: My understanding is the city is
7 committed to fund the unfunded liability. I just don't
8 know -- the city and the Retirement Systems have to decide
9 what the amortization methodology is of the UAAL at the
10 end -- at the end of year ten, and the city is committed to
11 fund that underfunded liability. Depending on what
12 amortization schedule gets picked, the payments can change
13 slightly because of the interest rate, but my understanding
14 is the city is committed to make the payments beyond 2024
15 into those pension systems.

16 THE COURT: Do you know the answer to my question?

17 MR. STEWART: Your Honor, I confess that I do not.

18 THE COURT: Anybody know the answer to my question?

19 MR. CULLEN: The answer is yes, your Honor.

20 THE COURT: All right. Thank you.

21 BY MR. STEWART:

22 Q Let me ask this. How would the change in amortization
23 after 2024 affect the contribution level?

24 A It depends on the amortization methodology. What we have
25 used in the projections is a straight line principle in which

1 the city is making higher payments in the first decade, and
2 over the course of the 30 years it makes lower payments going
3 forward. You can change the amortization methodology to make
4 it like a level payment over 30 years in which the city will
5 have lower payments in the first, say, ten years, but over
6 the course of the 30 years the city will end up paying more
7 because it has to pay more interest, so it's more on the
8 methodology aspect as to how that liability gets serviced.

9 MR. STEWART: Can we now put up Exhibit 732?

10 BY MR. STEWART:

11 Q Mr. Malhotra, what is Exhibit 732?

12 A 732 shows the pension contributions for the General
13 Retirement System and the Police and Fire Retirement System
14 over the first ten years and the sources of the funding.

15 Q And who prepared Exhibit 732?

16 A We did.

17 MR. STEWART: Your Honor, I would move the admission
18 of Exhibit 732 as a demonstrative exhibit.

19 MR. SOTO: No objection.

20 MR. WAGNER: Same.

21 THE COURT: It is admitted.

22 (City Exhibit 732 received at 2:25 p.m.)

23 BY MR. STEWART:

24 Q Mr. Malhotra, please explain to us what is depicted in
25 Exhibit 732.

1 A 732 for the General Retirement System shows that the
2 total contributions going into the retirement -- General
3 Retirement System are 719 million through 2023. \$428.5
4 million of that is coming through DWSD. \$31.7 million in
5 nominal dollars is coming through UTGOs, which are really the
6 stub UTGOs. \$98.8 million is coming from the state
7 settlement. \$45 million is coming from DIA, and the
8 remaining 114.6 million is coming from the general/other
9 funds, which is reimbursement from other funds. Of that
10 114.6 approximately \$90 million is general fund dollars.

11 Q Nine zero?

12 A That's right, about 90 million. That's right.

13 Q Why is such a large segment of the GRS side of this
14 coming from the DWSD?

15 A It's a part of the overall pension settlement in terms of
16 the required dollars for the -- for GRS.

17 Q Okay. Now, to the right we have another pie chart;
18 correct?

19 A Yes.

20 Q Why is it smaller than the one on the left?

21 A It's smaller because the overall contributions to the
22 police and fire system are 261 million compared to the 719
23 million on the left side. And one thing I would just
24 clarify, the DWSD contributions -- sorry -- are coming in
25 over nine years because they're fully repaying their unfunded

1 liability over a much shorter time frame, so I just wanted to
2 clarify that as well.

3 Q Let's go back and deal with it before we go to the PFRS.
4 You're saying that the 428.5 million is from the DWSD;
5 correct?

6 A That is correct.

7 Q What does that represent with respect to the DWSD?

8 A It represents DWSD paying its UAAL that exists today but
9 paying it over the course of the next nine years in its
10 entirety in addition to some professional fees and admin
11 expenses that are being allocated for to DWSD, but they're
12 essentially paying their UAAL at a much faster rate compared
13 to the rest of the General Retirement System.

14 Q How does one know how much of the UAAL for the GRS is
15 attributable to the DWSD as opposed to attributable to
16 everybody else?

17 Q It's given to us by Milliman.

18 Q By the actuaries?

19 A That is correct.

20 Q Then you mentioned the nine years. Tell me, once again,
21 why they're paying it in nine years instead of some other
22 period of time.

23 A They're paying it over nine years as a part of an overall
24 settlement because in aggregate the total dollars that are
25 coming from DWSD are still significantly lower than what DWSD

1 would have been responsible for outside of a restructuring.

2 Q Now let's go back to the PFRS, and I believe there are
3 two sources of payment there. Please describe those to us.

4 A The blue chart represents the -- the blue part of the pie
5 chart represents the money that is going to come in from the
6 foundations into PFRS over the first ten years and -- through
7 2023, and \$96 million is coming in from the state.

8 Q All right. Now, the contributions you've talked about,
9 are any of those the result of something known as the grand
10 bargain?

11 A Yes.

12 Q What is the grand bargain?

13 A The grand bargain in terms of the financial elements that
14 are -- the contributions that are coming into the city,
15 there's approximately \$366 million of contributions that are
16 supposed to come in from the foundations over a 20-year time
17 frame and nominal dollars -- excuse me -- approximately \$100
18 million from DIA in nominal dollars over 20 years and from
19 the state approximately \$194.8 million that are coming in up
20 front, which is their share of \$350 million at a present
21 value.

22 MR. STEWART: Let me ask to put up Exhibit 724.

23 BY MR. STEWART:

24 Q Do you have Exhibit 724 before you?

25 A I do.

1 Q Is that a summary of the terms of the grand bargain?

2 A Yes.

3 Q Who prepared this?

4 A Jones Day team along with our input.

5 MR. STEWART: Your Honor, I'd move the admission for
6 demonstrative purposes alone of Exhibit 724.

7 MR. SOTO: No objection, your Honor.

8 MR. WAGNER: No objection.

9 THE COURT: It is admitted.

10 (City Exhibit 724 received at 2:31 p.m.)

11 BY MR. STEWART:

12 Q Mr. Malhotra, I probably should have put this up before I
13 asked you the question I asked a minute ago, but could you
14 walk us through what the economic terms are for the grand
15 bargain?

16 A Yes. The state contribution agreement is -- provides for
17 \$194.8 million in cash, which is equal to the PV of \$350
18 million over 20 years at a 6.75-percent discount rate.

19 Q What does PV mean?

20 A Present value.

21 Q And why is there -- and that's at a discount rate of 6.75
22 percent?

23 A That's correct.

24 Q Where did that discount rate come from?

25 A The state was using the same discount rate that the

1 pension systems are using.

2 Q Okay. And why was the period of 20 years chosen?

3 A The general parameters of the contributions coming in for
4 the grand bargain was over 20 years.

5 Q So the state contribution, how much in dollars is it
6 going to end up being?

7 A I'm sorry.

8 Q How much will the state contribution end up being in
9 actual dollars?

10 A The present value dollars are \$194.8 million, which would
11 be dollars much earlier, versus \$350 million over 20 years.

12 Q Do you know when it is the state is going to make that
13 payment?

14 A I do not know the exact date. It's, of course, tied to
15 the effective date of the plan. I do not know the exact
16 date.

17 Q Let me ask a different way. Do you know what the state
18 will do versus making a single payment versus spreading the
19 payment out over a period of time?

20 A The state is planning to make a single payment.

21 Q And then going further we have the income stabilization
22 payments. Can you tell me what those are?

23 A Those are the payments that are going into the income
24 stabilization fund that are being paid through the stub
25 UTGOs, so this would be no less than \$20 million over 14

1 years in which the city continues to collect its UTGO taxes
2 per the millage, and a portion of that money is going to be
3 paid into the income stabilization fund.

4 Q Why is that not shown on your table here?

5 A That is basically money that's coming -- it's not new
6 money that's coming from the state. This is UTGO collections
7 that are going to be set aside, and it's just a part of the
8 overall state settlement in terms of the state also
9 contributing the 194.8 million is to ensure that this 20
10 million will be available for the income stabilization fund
11 that will be funded through the collection of UTGO taxes.

12 Q Please describe to us then the economic elements of the
13 DIA settlement.

14 A The foundations are required to contribute \$366 million
15 of nominal amount over 20 years, and the DIA is required to
16 contribute \$100 million in nominal dollars over 20 years.

17 Q And how does the grand bargain then affect the city's
18 unfunded actuarial accrued liabilities?

19 A It definitely will help reduce it or at least reduces the
20 city's requirement of funding those contributions.

21 Q Now, let me ask you --

22 MR. STEWART: Set's put up Exhibit 732, please.

23 BY MR. STEWART:

24 Q What is -- I believe we looked at 732 a minute ago, and
25 I'd ask you about the portion of this that's coming from the

1 DWSD, and that's the \$428.5 million; correct?

2 A That is correct.

3 Q Have you performed a calculation of the overall economic
4 effect on the DWSD of the city's plan of adjustment?

5 A Yes.

6 MR. STEWART: Let's put up Exhibit 201.

7 THE COURT: Excuse me. Before we do that, can we go
8 back to the screen that was up and now the one before this
9 one and back to the next one, please? Am I missing
10 something, or is the pie chart on the left for the General
11 Retirement System not showing the foundations' contribution?

12 THE WITNESS: Your Honor, this chart represents the
13 first ten years only, so the foundations' money that's coming
14 into the General Retirement Systems is coming in the second
15 decade, and so it's --

16 THE COURT: Okay.

17 THE WITNESS: -- a timing issue.

18 THE COURT: Okay. Thank you.

19 BY MR. STEWART:

20 Q Mr. Malhotra, I have Exhibit 201 on the screen, and we've
21 been able to blow it up. I realize this can be hard to read.
22 That's why it's in the binders, and it may be easier for
23 some --

24 THE COURT: I can read it. Thank you.

25 MR. STEWART: -- to look at in hard copy.

1 BY MR. STEWART:

2 Q Please tell us, if you could, Mr. Malhotra, first of all,
3 who prepared Exhibit 201.

4 A This was a schedule we had prepared some time ago.

5 Q And what is it a schedule of?

6 A It was -- it's a schedule that shows the pension payments
7 under the plan of adjustment and the OPEB payments under the
8 plan of adjustment for DWSD as compared to those under no
9 restructuring scenario.

10 Q Okay. So let me, if I could, ask you about it. At the
11 top -- and this was based on an Excel spreadsheet, I assume?

12 A That is correct.

13 Q Let's look at the top. The top segment says POA, and
14 what does that part of our exhibit discuss?

15 A The pension payments and the professional fees and the
16 pension administration costs that are assumed to come in from
17 DWSD as a part of the plan of adjustment.

18 Q And what period of time is covered by the POA segment of
19 Exhibit 201?

20 A It went through 40 years.

21 Q Okay. Now, we, first of all, have pension payments at
22 the top. What are those?

23 A Those are the payments that are coming in from DWSD over
24 the next nine years in terms of DWSD fully funding its UAAL
25 over the next nine years.

1 Q And then professional fees, what is that for?

2 A Professional fees is the allocation to DWSD of the total
3 professional fees that were projected at that point of time
4 for DWSD to get its pro rata share.

5 Q Would that be higher today?

6 A Yes.

7 Q Do you know how much higher it would be today?

8 A It would probably be seven or eight -- could be seven or
9 \$8 million higher.

10 Q What's the next line?

11 A Pension administration, administrative costs.

12 Q Okay. And what are those?

13 A Those are admin costs related to the General Retirement
14 System and DWSD's allocation.

15 Q Below that?

16 A That represents the OPEB for current retirees, so the
17 allocation of the B note to DWSD for its pro rata -- on the
18 basis of its pro rata share.

19 Q And that would be going forward as long as there are B
20 notes out there?

21 A Yes.

22 Q What's POC a reference to?

23 A Similar in terms of an allocation to DWSD of the B notes
24 or the reserve in some fashion to what would be allocated to
25 DWSD.

1 Q Has that changed recently?

2 A We have -- well, this schedule does not reflect the
3 Syncora settlement.

4 Q What would the effect of the Syncora settlement be on
5 this line?

6 A It would go up slightly.

7 Q How much?

8 A Probably a hundred or \$200,000 per year.

9 Q What does the reference to swaps mean?

10 A That's a part of the overall swaps settlement and a
11 portion that could be allocated to DWSD.

12 Q Okay. So let's go back so we can see the full view. As
13 a result of this, you have something called total DWSD legacy
14 payments. What does that represent?

15 A The total DWSD legacy payments represents the summation
16 of the subtotal up above -- that's the subtotal DWSD legacy
17 payments -- plus what DWSD could theoretically be paying --
18 or could be paying for its pension and OPEB obligations for
19 its current active employees.

20 Q And what is the assumption this part of the exhibit is
21 based on?

22 A The assumption is that DWSD, similar to the rest of the
23 general nonuniform employees, will be contributing
24 approximately 5.75 percent with respect to the pension for
25 active employees and on the future retirees would be paying

1 two percent of payroll.

2 Q So this segment shows what the effect would be on DWSD
3 under the plan. Do I understand that correctly?

4 A That is correct.

5 Q So let's go down to no restructuring. And before getting
6 into any numbers, what do you mean by "no restructuring"?

7 A No restructuring -- when we developed the schedule, it
8 was meant to reflect what DWSD's obligations were going to be
9 had none of the OPEB or POC obligations or swap obligations
10 been settled or restructured, and with respect to the pension
11 payment, given the fact that there are multiple scenarios,
12 all we did is we took the Gabriel, Roeder report and saw what
13 the 2015 pension payment was attributable to DWSD and kept
14 that flat.

15 Q So let's go look at the full view. You have a line,
16 "Total DWSD Legacy Payments," and so what does that
17 represent?

18 A That represents what the DWSD legacy payments would be
19 absent a restructuring and assuming these very conservative
20 pension payments.

21 Q And at the bottom we have "Savings/Additional Cost."
22 What are those calculations intended to depict?

23 A What they were intended to do was to show how much
24 savings are being generated as a part of the restructuring
25 that benefit DWSD.

1 Q And let's go back to the full view, and what did you
2 determine in terms of the overall economic effect on DWSD of
3 the plan as it exists -- proposed, I should say, today? Go
4 ahead.

5 A We saw that the total additional -- the total savings for
6 2015 to 2023 just on a conservative basis would be
7 approximately \$172.8 million -- could be higher than that --
8 just for those nine years, and then DWSD continued to benefit
9 from these savings going into the next two decades partly
10 because, of course, they have assumed to pay their pension
11 faster, but, more importantly, there's significant savings in
12 the OPEB costs for DWSD as a part of this plan of adjustment.

13 MR. STEWART: Your Honor, I would like to move
14 Exhibit 201 into evidence.

15 MR. SOTO: No objection, your Honor.

16 MR. WAGNER: Same.

17 THE COURT: It is admitted.

18 (City Exhibit 201 received at 2:44 p.m.)

19 BY MR. STEWART:

20 Q Let me ask you -- let's go, if we could, now to Exhibit
21 734 again and to page 3 of 14. Could you tell us,
22 Mr. Malhotra, what page 3 of 14 of Exhibit 734 sets forth?

23 A It sets forth per the September projections under the
24 assumptions in there -- the first section on top is -- first
25 section over the next ten years by different creditor

1 classes, what distributions are going to be in nominal
2 dollars for those classes and the source of that funding over
3 the next ten years, and that same has been repeated down
4 below for 40 years along with recovery calculations using a
5 five-percent discount rate.

6 Q So this is a table; correct?

7 A That's correct.

8 MR. STEWART: If we can, let's blow up the top part
9 and the left side of the top part so we can all see it more
10 legibly. That's fine. Good. All right.

11 BY MR. STEWART:

12 Q And so we have for the ten-year the various settlements
13 that we've talked about; correct?

14 A That's correct.

15 Q All right. Then walk us through this table and show how
16 you've scheduled out these various settlements.

17 A So for Class 7, which is the limited tax general
18 obligation bonds, those are assumed to get paid \$55 million
19 in full upon the effective date, so -- or right around the
20 effective date, so there is no interest that is being paid on
21 that. In addition, they're getting a portion of the B notes
22 as well.

23 Q Without going through each of these, tell us how this
24 table correlates to the settlements you described to us
25 earlier when we went through the various demonstratives.

1 A They're the same.

2 Q Okay. And it shows the amount of the claim and then what
3 the claimant is getting; correct?

4 A That's right. And this table reflects the cash over the
5 first ten years, and the table below it showed over forty.

6 Q So let's go to the 40-year now. Why, by the way, has it
7 been necessary to extend this table out to 40 years instead
8 of just stopping at 10?

9 A Because the commitments that the city is making in terms
10 of its B notes as well as its pension obligation commitments
11 at the end of ten years go nearly forty years, and that's the
12 reason we've developed a forty-year forecast.

13 Q So let's now focus on the right side of the part that we
14 have -- we've expanded here, and tell us, if you could, what
15 that depicts.

16 A The right side shows the nominal dollars that are getting
17 paid in the first column over the 40-year time frame and the
18 present value calculation assuming a five-percent discount
19 rate for all of these classes.

20 Q And then you have percentages there. Well, first of all,
21 let me ask this. Why do we -- the middle column is PV for
22 present value; correct?

23 A That is correct.

24 Q Why have you reduced these to present value?

25 A Because these are getting paid over a period of time to

1 reflect what the value today is assuming a five-percent
2 discount rate.

3 Q Okay. And then you have a percentage column. Tell us
4 again what that stands for.

5 A It stands for the percentage of the present value divided
6 by the claim.

7 Q And if we just look from the creditor line over to the
8 percentage line, that will tell us what each class is getting
9 as a percentage is. Have I read that correctly?

10 A That is correct.

11 Q So let's go now on the same exhibit to page 7. You can
12 just leave it like that for now. So I want to recap with you
13 where we've been in your testimony, Mr. Malhotra. As we look
14 at our page, have we now gone over all the elements of
15 revenues and expenditures for the city?

16 A On this page 7, we have gone through all of the revenues
17 and operating expenditures, but the settlements or the
18 payments are shown on the following page.

19 Q You're getting ahead of me. I wanted to go to the very
20 bottom line on this page and have you describe for me what
21 that represents.

22 A That represents the funds available for unsecured claims.

23 Q When you say "funds available for unsecured claims," what
24 are you referring to?

25 A It refers to the amount of cash the city will have

1 available to meet its unsecured -- to meet its obligations as
2 proposed under the plan of adjustment under these assumptions
3 going forward.

4 Q So let's now go to the next page, which would be eight of
5 fourteen. Now, eight of fourteen has a line called
6 "Sources." Do you see that?

7 A Yes.

8 Q And what do you mean when you use the word or you refer
9 to sources?

10 A An inflow of cash.

11 Q And what's the relation between what we just looked at,
12 which is funds available for unsecured claims, and where we
13 begin on page 8 with sources?

14 A It should be the same amount. It's carrying forward from
15 the previous page.

16 Q So that's the first line?

17 A That is correct.

18 Q Okay. Show us the additional sources then that we have
19 in the coming years as set forth on this page of our exhibit.

20 A Those are shown below in terms of the amounts that are
21 coming from DWSD for its pension obligations, its OPEB
22 obligations and POC, which both are essentially their pro
23 rata share of B note payments, some of the reimbursements
24 from other funds that include library and parking, the
25 funding from the grand bargain, which includes the

1 foundations, the DIA, and the state settlement, to come up
2 with the total sources that are going to be available for
3 making distributions.

4 Q And my eyes aren't as good as they once were, but it
5 appears to be 1664.5 as the total sources for the ten-year
6 period or the period that will end in 2023?

7 A That's correct.

8 Q So now let's go to uses, if we could. What do you mean,
9 first of all, by the phrase "uses"?

10 A An outflow of cash.

11 Q Okay. So let's go through them. Tell us what the top
12 part of uses is.

13 A The top part is the PFRS and GRS pension contributions
14 that are going to be made over the next ten years in
15 aggregate, some PFRS and GRS OPEB payments for current
16 retirees.

17 Q So we have a subtotal for retiree distributions; correct?

18 A That's correct.

19 MR. STEWART: Let's go back to the full view so we
20 can see what that adds up to if we can just expand that on
21 the right-hand side.

22 BY MR. STEWART:

23 Q That comes up to how much?

24 A Just shy of a billion dollars.

25 Q And below that we have "note and cash payments." Are we

1 on the same part of the document?

2 MR. STEWART: Actually, what you just had. Put that
3 back up. Thanks. There we go.

4 BY MR. STEWART:

5 Q What notes are we talking about here?

6 A The same notes we went through earlier, UTGOs, LTGOs, the
7 B notes, and the C notes.

8 Q And what do they add up to as uses during this period?

9 A \$620 million.

10 Q Okay. And then so we add up the uses, and what do they
11 aggregate to?

12 A Just north of a billion six, 1.61 billion.

13 Q Okay.

14 MR. STEWART: So let's now go back to the full view
15 again. I'm sorry to go back and forth this way.

16 BY MR. STEWART:

17 Q So we then have a line that says surplus or deficit. Do
18 you see that?

19 A Yes.

20 Q And where does that number come from?

21 A It's just the delta between the total sources and the
22 total uses.

23 Q Okay. And below that we have ending cash balance.

24 A That's correct.

25 MR. STEWART: Let's go back to the full view again.

1 BY MR. STEWART:

2 Q And the ending cash balance is going -- is projected to
3 be how much as of the end of 2015?

4 A The end of 2015 the ending cash balance is projected to
5 be 75.6 million.

6 Q Now, in the years after 2015, how much does that number
7 change?

8 A Not much. It only goes up to \$80 million.

9 Q Do you know why it is the ending cash balance remains the
10 way it is over the period of these years?

11 A That's because under these assumptions, the city is
12 distributing what it is collecting from an overall
13 perspective.

14 Q Has the city -- what policy decision, if any, has the
15 city made with respect to the cash balance it intends to keep
16 on hand in the coming ten years?

17 A Well, the assumption that's used in here is a two month
18 of payroll and benefits minimum cash balance or at the same
19 time to at least hold five percent of -- excuse me -- five
20 percent of the following year's budgeted expenditures to --
21 for the city to have that in cash at the end of the previous
22 fiscal year.

23 Q And although we didn't focus on it, fair to say that if
24 we looked at the previous page, we'd see an entry for
25 contingency there?

1 A Yes.

2 Q And why don't we go to the previous page and look at it
3 briefly at the bottom left? What is that a reference to?

4 A That is a contingency for unforeseen items of either a
5 revenue reduction or an increase in an expense, and we've
6 assumed a one percent of revenue contingency throughout this
7 forecast period.

8 Q Let's go then to the following page one more time and
9 look at the cash. Are you aware of recent legislation in
10 Michigan that would require the city to maintain reserves of
11 five percent of expenses?

12 A Yes.

13 Q And where is that reflected in your analysis?

14 A Our assumption is that in the ending cash balance of the
15 75 or \$80 million at the end of any fiscal year the city
16 should still have -- will still have at least five percent of
17 its following year's budgeted expenditures reserved in that
18 cash number, so it's basically at least a minimum cash
19 threshold over the forecast period.

20 Q Now, you've reviewed with us for some period of time
21 today the model that you prepared and the settlements and so
22 on. What does this analysis tell us in terms of the city's
23 ability in the coming years to satisfy its operating
24 expenses?

25 A Based on these assumptions, the city should be able to

1 satisfy its operating expenses.

2 Q What does this analysis say in the coming years about the
3 city's ability to pay its obligations under the plan?

4 A Based on the assumptions in this forecast, the city
5 should have the ability to pay its obligations as scheduled
6 in these distributions.

7 Q And, finally, what does this analysis say in terms of the
8 city's ability to maintain a cash reserve in the coming
9 years?

10 A Based on these assumptions, the city should be able to
11 maintain a cash balance consistent with these assumptions.

12 Q Let's go now to page 4 of this --

13 THE COURT: Excuse me. Before we leave this page,
14 is the five-percent contingency that the law requires
15 reflected here in the line called "Ending Cash Balance"? Is
16 that your testimony?

17 THE WITNESS: Yes, your Honor. That's the way we
18 are anticipating it, that these are June 30th, so these are
19 fiscal year-end cash balances, and so the city should at
20 least have five percent of the following year's expenditures,
21 which are roughly approximately a billion dollars. So the
22 city should at least have at any given point of time five
23 percent of those budgeted expenditures in its cash balance.

24 BY MR. STEWART:

25 Q Let me ask one thing about timing. Is it the case that

1 the city's revenue receipts are not steady month to month
2 over the course of the year?

3 A That is correct.

4 Q What is the time during the year when the cash on hand
5 typically is at its lowest?

6 A Typically it is at the end of the fiscal year before the
7 summer taxes start flowing in.

8 Q Sorry. Summer taxes?

9 A Sorry. Summer property taxes start coming into the city
10 in the July, August time frame, so end of the fiscal year
11 generally is a low point in terms of the city's cash balance.

12 Q Let's, if we could, then go to page --

13 THE COURT: All right. Before we move on, let's go
14 ahead and take our afternoon recess at this time, and we'll
15 reconvene at 3:15, please.

16 THE CLERK: All rise. Court is in recess.

17 (Recess at 3:00 p.m., until 3:17 p.m.)

18 THE CLERK: All rise. Court is back in session.
19 You may be seated.

20 MR. HERTZBERG: Your Honor, Robert Hertzberg. We
21 are trying to track down who Mr. Flynn is, and we're not
22 aware of what it is. We're going to check with Mr. Legghio
23 and Ms. Patek, but unless the Court has any other
24 information, we're struggling right now on it.

25 THE COURT: The only additional information I can

1 share with you is that he called my office today asking what
2 the consequences would be for tomorrow's hearing if he
3 withdrew his joinder in the DPOA objections, and, of course,
4 we were not able to answer that question, so --

5 MR. HERTZBERG: So it sounds like he --

6 THE COURT: -- we suggested that he reach out, you
7 know, to you all to try to work it out, whatever you could do
8 in terms of answering that question.

9 MR. HERTZBERG: It sounds like maybe he filed an
10 objection, he wants withdrawal, because we looked on the pro
11 se list also in the -- a scheduling order, and his name was
12 not in there.

13 THE COURT: No.

14 MR. HERTZBERG: Okay.

15 THE COURT: I mean --

16 MR. HERTZBERG: We'll keep trying to track it down,
17 though.

18 THE COURT: Let me ask you -- maybe the most
19 efficient way to get your question answered is for you to
20 talk to my assistant, Chris, directly --

21 MR. HERTZBERG: Okay.

22 THE COURT: -- you know, here in the next few
23 minutes, and she might be able to fill you in a little bit
24 better.

25 MR. HERTZBERG: Okay. Thank you, your Honor.

1 THE COURT: Okay.

2 MR. STEWART: Your Honor, one -- I think I neglected
3 to move into evidence demonstrative Exhibit 727, which I
4 would move into evidence now. Maybe we should put it up so
5 that others can see the document we're talking about. And I
6 would move it into evidence as a demonstrative exhibit.

7 THE COURT: Any objections?

8 MR. WAGNER: No.

9 MR. SOTO: No, your Honor.

10 THE COURT: All right. It is admitted.

11 (City Exhibit 727 received at 3:19 p.m.)

12 BY MR. STEWART:

13 Q So if we could, let's now go to page 4 of Exhibit 734.
14 Mr. Malhotra, do you have page 4 of Exhibit 734 in front of
15 you?

16 A I do.

17 Q And is this a sources and uses for the 40-year period?

18 A Yes.

19 Q And what does it have -- and the first column is for the
20 first ten years; correct?

21 A That is correct.

22 Q But then there are three more columns. Tell us, if you
23 could, what those three columns are intended to represent.

24 A They represent the revenue and expenditures over the next
25 three decades.

1 Q Now, where, if at all, here do the city's obligations
2 under the plan appear under the 30 years that begin in 2024?

3 A They are not included in here on this particular page.

4 Q Okay. Is there a page -- let's go to the next page then.
5 We've been looking at the sources page; correct?

6 A That is correct.

7 Q Let's go to the next page, page 5. And, first of all,
8 the top line, is that the carry-over from the previous page?

9 A That is correct.

10 Q And then further down, where does it appear what the
11 city's ongoing obligations will be under the plan if the plan
12 were confirmed?

13 A Under the uses.

14 Q Okay. Where in particular should we be looking?

15 A Under the uses you would see under the retiree payments
16 the PFRS and GRS payments extending all the way into 40 years
17 to reflect the amortization of the UAAL over the time frame,
18 and it shows that the second decade payments are higher, of
19 course, compared to the following two decades, and then
20 further down below it shows the obligations of the city under
21 the new notes, so it's the UTGOs, the LTGOs, the B notes, and
22 the payments on the C notes as well over the forecast period.

23 Q What is your analysis -- so this is the analysis for the
24 40-year period; correct?

25 A Yes. Under these assumptions, yes.

1 Q What does your analysis indicate in terms of the city's
2 ability in the coming 40 years to pay its operating expenses?

3 A Based on the assumptions that are included here, I
4 believe the city should be able to have the resources to make
5 its obligations.

6 Q And what does it indicate in terms of the city's ability
7 in that time frame to pay its obligations under the plan?

8 A Based on the assumptions that are included in these set
9 of projections, it shows that the city should be able to meet
10 its obligations.

11 Q And, finally, what does it indicate in terms of the
12 city's ability to retain a sufficient cash balance over those
13 40 years after having met its other obligations?

14 A So it shows under these obligations the city will have
15 \$80 million of cash and up to 160 -- \$160 million of cash at
16 the end of 2053, so the city is always maintaining a minimum
17 cash balance.

18 Q Now, under these two forecasts, you have included C
19 notes; correct?

20 A That is correct.

21 Q Now, have you -- what C notes have you included in these
22 two forecasts?

23 A The C notes related to Syncora.

24 Q Now, how would this change, if at all, if FGIC chose to
25 opt into a settlement like the Syncora settlement?

1 A Using the same assumptions as the Syncora settlement, the
2 cost of FGIC opting in is somewhere between 85 and \$90
3 million over a 12-year time frame, so we would have to look
4 at the assumptions with respect to the costs, the
5 reinvestment expenses to ascertain -- and certain policy
6 decisions that will have to be made by the leadership team of
7 the city to ascertain the appropriate way of handling a FGIC
8 settlement -- potential FGIC opt-in.

9 Q If they opted in. Okay. Let's go, if we could, to
10 Exhibit 614. Let me ask a background question or two. Who
11 prepared Exhibit 614?

12 A We did.

13 Q And what does it purport to set forth?

14 A It shows the COPs balances under the three components,
15 those COPs that had a fixed rate interest rate, those COPs
16 that had a variable interest rate through -- due 2029, and
17 those portion of the COPs that had a variable interest rate
18 and they were due in 2034.

19 MR. STEWART: Your Honor, I would move the admission
20 of Exhibit 614 as a set of calculations.

21 THE COURT: Any objections?

22 MR. SOTO: No, your Honor.

23 THE COURT: It is admitted.

24 (City Exhibit 614 received at 3:25 p.m.)

25 BY MR. STEWART:

1 Q Can you tell me why you prepared Exhibit 614?

2 A It was at the request of counsel.

3 Q Counsel being who?

4 A Mr. Bruce Bennett.

5 Q And let's go through the calculations, if we could. Tell
6 us, first of all, at the highest level what these
7 calculations purport to be calculating?

8 A The first three sections just calculate the total
9 principal and interest payments that would be due under these
10 three sets of COPs that were outstanding and with the LIBOR
11 assumptions over the forecast period that were provided to us
12 based on the spread that exists under the existing
13 agreements.

14 Q Let me stop you there. The upper left-hand corner it
15 says "fixed rate." Is that referring to any particular part
16 of the COPs?

17 A The fixed interest rate, yes.

18 Q Okay. What part of the COPs does variable rate 2029
19 refer to?

20 A The ones with the outstanding balance of 299.2 million.

21 Q Okay.

22 A Those ones had a variable interest rate.

23 Q And what part of the COPs does the entry "variable rate
24 2034" refer to?

25 A The COPs had about \$500.8 million of principal that was

1 outstanding that had a variable interest rate component.

2 Q And then there's a reference here to LIBOR in different
3 ways. First of all, what is LIBOR?

4 A It's the London Interbank Offered Rate.

5 Q Why is it relevant here?

6 A It's a forward looking interest rate curve or more like
7 an index that is used often.

8 Q Okay. And as a result of doing the analysis that you did
9 on these three issues of COPs, what did you calculate?

10 A We calculated what the payments would be. We got the
11 LIBOR forward forecast from Miller Buckfire, and we did the
12 calculation as to what the payments of interest and principal
13 would be on these COPs in the three different tranches that
14 we were looking at.

15 Q And where does that -- where does the sum of that appear
16 on Exhibit 614?

17 A Under the total payment section.

18 Q I see. And is that the bold number we see as the sum
19 there that starts with 39.7?

20 A Yes.

21 Q And were those added up to some overall amount at some
22 point?

23 A Yes.

24 Q Where is the sum of all those?

25 A In the total payments.

1 Q Okay. If we looked at the lower right, would there be a
2 number that sums up all the total payments?

3 A It doesn't appear to be the case.

4 Q Okay. So once you had calculated the total payments,
5 what did you next do?

6 A We were asked to discount those payments at a 6.75-
7 percent discount rate.

8 Q Why a 6.75 discount rate?

9 A That was what was given to us by counsel.

10 Q And did you do that?

11 A Yes.

12 Q And what was the result of your calculation?

13 A It showed that based on that payment stream, if you were
14 to discount it at 6.75 percent, it would equate to a sum of
15 about a billion one.

16 Q And is that what is shown in the lower left-hand
17 corner --

18 A Yes.

19 Q -- of the exhibit?

20 MR. WAGNER: Your Honor, just --

21 BY MR. STEWART:

22 Q Right now --

23 MR. WAGNER: I'm sorry. Just before we leave the
24 document, it does have a notation, which is very hard to
25 read, and you can't see it on the screen, "Privileged and

1 confidential settlement communication in court-ordered
2 mediation, not to be presented to or admitted into evidence
3 in any action or proceeding." I mean it's just numbers, so
4 maybe we don't have an objection to it, but that shouldn't be
5 taken as any sort of waiver that the mediation -- that
6 documents covered by the mediation order can be selectively
7 produced and shown to witnesses.

8 THE COURT: Okay. Thank you.

9 BY MR. STEWART:

10 Q If we could now go to Exhibit 742, what is Exhibit 742?

11 A 742 shows the present value at 6.75 percent of the
12 payments to the Retirement Systems for a 40-year period.

13 Q And who calculated the numbers we see on Exhibit 742?

14 A We calculated the payments based on the 6.75-percent
15 discount rate.

16 Q And why did you do that?

17 A At the request of counsel.

18 Q And who was the counsel who requested that of you?

19 A Bruce Bennett.

20 Q Let's put up --

21 MR. STEWART: Your Honor, I would move into evidence
22 Exhibit 742 as a demonstrative exhibit.

23 MR. SOTO: No objection, your Honor.

24 MR. WAGNER: Same.

25 THE COURT: It is admitted.

1 (City Exhibit 742 received at 3:30 p.m.)

2 MR. STEWART: Let's put up briefly Exhibit 749, and
3 we'll come back to this.

4 BY MR. STEWART:

5 Q What is Exhibit 749?

6 A 749 shows --

7 Q First of all, who prepared Exhibit 749?

8 A We did.

9 Q Okay. And why did you prepare it?

10 A The top part of 749, which shows the GRS and PFRS, was
11 the backup for the contributions by source that are going
12 into GRS and PFRS respectively. The section at the bottom
13 starting at Row 42 we added at the request of counsel to
14 present value those contributions at a 6.75-percent discount
15 rate.

16 MR. STEWART: Your Honor, I'd move into evidence
17 Exhibit 749.

18 MR. SOTO: No objection, your Honor.

19 MR. WAGNER: Same.

20 THE COURT: It is admitted.

21 (City Exhibit 749 received at 3:31 p.m.)

22 BY MR. STEWART:

23 Q Let's now go back to 742. Tell me, if you could,
24 Mr. Malhotra, what Exhibit 742 discloses to us. What does it
25 describe?

1 A It describes the total payments that are going into the
2 pension systems by various source over the course of the next
3 40 years,, what the present value of those contributions
4 would be at 6.75-percent discount rate.

5 Q And what did you determine that that present value would
6 be?

7 A As this chart shows, it would be about \$976 million for
8 GRS and about 608 million for PFRS.

9 Q Thank you.

10 MR. STEWART: We can take that down.

11 BY MR. STEWART:

12 Q Let's, if we could, go to Exhibit 733 and, in particular,
13 to page 6 of our document, of this exhibit. Can you tell me,
14 Mr. Malhotra, what is page 6 of Exhibit 733?

15 A Page 6 is the ten-year projections under a pre-
16 restructuring or sort of a no bankruptcy scenario.

17 Q Is this the baseline scenario you disclosed to us
18 earlier?

19 A Yes.

20 Q And what was the date on which you prepared page 6 of
21 Exhibit 733?

22 MR. SOTO: What exhibit is that?

23 MR. STEWART: 733.

24 MR. SOTO: Thank you.

25 THE WITNESS: It was slightly updated in September,

1 but most of the schedule has generally remained intact other
2 than some changes, but I would have updated it in September
3 consistent with the rest of the projections.

4 BY MR. STEWART:

5 Q All right. And the page we have before us, tell us just
6 in very general terms what it sets forth.

7 A It shows that under a no restructuring scenario, the
8 city's revenues over the next ten years were forecasted to be
9 approximately 10.4 billion, operating expenditures in total
10 of about 7.4 billion, so an operating surplus of roughly
11 three billion and legacy liabilities of the original debt and
12 UTGO debt service, POC principal and interest, the POC swaps
13 had the settlement not been made, the pension contributions
14 based on the assumptions that were being used from the June
15 13th proposal and the health benefits for the retirees, the
16 legacy expenditures were roughly seven billion, so resulting
17 in a deficit of approximately four billion over the next ten
18 years.

19 Q And then this below that talks about reinvestment in the
20 city?

21 A That's correct.

22 Q What's that a reference to?

23 A That refers to the latest reinvestment forecast, which
24 was a net 876 million.

25 Q Okay. So let's go to the next page, please. What does

1 the next page cover?

2 A It just covers the restructuring scenario and what the
3 funds available for unsecured claims were.

4 Q Now, so page 6 is the baseline, and page 7 is the
5 restructuring; is that right?

6 A Yes. Page 7 lays out a restructuring of the amounts
7 available for unsecured claims.

8 Q Okay. And in terms of the plan of adjustment, what does
9 page 7 describe? Let me ask a different question. Fair to
10 say page 7 is the representation of what would happen if the
11 plan were confirmed?

12 A That is correct. Under these assumptions, these would be
13 the funds that would then get allocated to the various
14 creditors if the plan were confirmed.

15 Q And what does page 6 represent today?

16 A Page 6 would represent what would happen if there was no
17 bankruptcy or if the city was just continuing as though
18 nothing had happened.

19 Q Have you heard of something called a dismissal analysis?

20 MR. SOTO: Objection, your Honor.

21 MR. STEWART: I think I'm allowed to ask him if he's
22 heard of it.

23 MR. SOTO: Well, I don't want to have another one of
24 these where we waived it.

25 THE COURT: What is the objection, sir?

1 MR. SOTO: In his expert report and during his
2 deposition Mr. Malhotra did not offer us -- he offered no
3 opinions regarding a dismissal analysis, exactly none. He
4 was specifically asked, as the city's Rule 30(b)(6) witness,
5 if he had prepared a dismissal analysis, and his answer was a
6 very clear, no, I had not, because he had not been asked to.
7 And what the city is about to try to do is to try to backfill
8 on the fact that this witness did not prepare a dismissal
9 analysis by asking him if he can prepare one or if the
10 baseline could be arguably one. When he answered his
11 questions at deposition and when he gave his expert report,
12 the baseline already existed, and yet he knew and he
13 testified and he admitted on behalf of the city that he had
14 not prepared a dismissal analysis. And it would be highly
15 prejudicial at this point to allow the city to try to turn
16 Mr. Malhotra into something that he already admitted he was
17 not.

18 MR. STEWART: The question was, "Have you heard" --

19 THE COURT: Excuse me one second.

20 MR. WAGNER: We join the objection, very eloquently
21 stated.

22 THE COURT: You, too?

23 MS. O'GORMAN: Yes.

24 MR. STEWART: The question was has he heard of
25 something called a dismissal analysis.

1 THE COURT: True enough, and normally I would deal
2 with objections on a question-by-question basis, but where
3 are you going with this?

4 MR. STEWART: I'm going to ask him how this is
5 different from a dismissal analysis.

6 THE COURT: How what is different?

7 MR. STEWART: This document is different.

8 THE COURT: What's the purpose of asking that?

9 MR. STEWART: It would be a foundation to something
10 else, but it would also be useful so that we could see what
11 we do have versus what we do not have.

12 MR. SOTO: Your Honor, this --

13 THE COURT: Is that just another way of saying you
14 want to use this as your dismissal analysis?

15 MR. STEWART: No. It's what it is. I, frankly,
16 don't think it's very far from one, but I'm not saying it is
17 a dismissal analysis. On the other hand, I think it's very
18 probative of other issues in the case.

19 THE COURT: What other issues?

20 MR. STEWART: Well, it's probative of what the
21 legacy liabilities look like if the case is dismissed. It's
22 probative of what the city's cash flows look like if the case
23 is dismissed. It's probative of all those things. The
24 question he was asked is did he do a dismissal analysis, and
25 he said he did not. Fair point. They didn't ask further

1 questions than that, but I don't think that should handcuff
2 him to talk about the things that he did do.

3 THE COURT: Well, but wasn't the city asked to
4 provide whatever -- well, wasn't the city asked to provide
5 whatever testimony it was going to provide about a dismissal
6 analysis, and isn't this that testimony?

7 MR. STEWART: It is not that testimony. He was
8 asked about dismissal analysis. He was not asked to prepare
9 one and so on. This, though, as Mr. Soto correctly says, has
10 been in the record one way or the other for over a year. He
11 was questioned about this at no small length, and he did
12 testify about this, so there's no surprise as to this
13 document. In fact, as we remember, this is something we
14 first saw in June of 2013, so I don't believe that. If the
15 objection instead is, well, this isn't called a dismissal
16 analysis, and you're not offering it as such, I'll say that's
17 certainly true, but on the other hand, I don't think it is an
18 absolutely irrelevant exercise that he went through, and I
19 think certain of the things that are shown here as a result
20 of the meticulous modeling we have been through all too much
21 today are improbative or not probative of anything. And I
22 would add, finally, much of this would even go to weight and
23 could be dealt with on cross-examination.

24 MR. SOTO: Your Honor, if I can respond when you
25 feel it's necessary.

1 THE COURT: It feels to me like the relevance that
2 you offer for this is a dismissal analysis, although you deny
3 that, so I'm going to sustain the objection.

4 MR. STEWART: Okay. Let me then ask a few
5 questions, and I will wrap up.

6 BY MR. STEWART:

7 Q What does -- what do these two pages of Exhibit 733 set
8 forth?

9 A Page 6 shows the baseline scenario or pre-restructuring
10 scenario, and page 7 -- which basically shows the deficit,
11 and page 7 shows the post-restructuring scenario and the
12 funds available for unsecured claims.

13 Q Did you discuss this with any of the other advisors to
14 the city?

15 A Yes. These pages have been in our -- in the ten-year
16 projections, and so they've been discussed with all the other
17 advisors.

18 Q What did you say, if anything, to Mr. Buckfire about it?

19 A Page 6 and 7 have been a package, so what we've talked
20 about at length is the cost of the legacy liabilities and the
21 projection of the legacy liabilities of the city.

22 Q What discussions, if any, have you had with Mr. Orr about
23 your baseline analysis?

24 A It was similar in terms of the assumptions behind the
25 projections and the cost of the legacy liabilities for the

1 city.

2 Q Thank you.

3 MR. STEWART: Your Honor, one last thing. I'm not
4 sure I moved Exhibit 742 into evidence, so if I failed to do
5 so, I would move it in now. If you could put that up --

6 THE COURT: Any objections?

7 MR. SOTO: No objection, your Honor.

8 MR. WAGER: As a demonstrative, that's fine.

9 MR. STEWART: As a demonstrative. That's right.

10 THE COURT: All right. It is admitted.

11 (City Exhibit 742 received at 3:42 p.m.)

12 MR. STEWART: Thank you. Your Honor, that is all I
13 have with Mr. Malhotra.

14 MR. SOTO: Your Honor, not to impose on the Court,
15 but if the Court wouldn't mind if I could turn the podium a
16 little.

17 THE COURT: Fine.

18 MR. SOTO: Okay. Thanks.

19 THE COURT: Yep.

20 CROSS-EXAMINATION

21 BY MR. SOTO:

22 Q Mr. Malhotra, I had a neck operation, and I'm not
23 supposed to turn to the right. That's why I'm --
24 Mr. Malhotra, we haven't met, and my name is Ed Soto. I have
25 a few questions on some of the exhibits that you just went

1 over. And I think I'll hit those first, and then we'll go to
2 some questions I have about your expert opinions and your
3 prior testimony. All right. So, first of all, if I could
4 ask you to take a look at Exhibit 728. I just had a question
5 about your testimony on that.

6 MR. SOTO: And if we could put up Exhibit 728 --

7 BY MR. SOTO:

8 Q So looking at Exhibit 728, under the column of interest
9 where it says -- so on the first line where it says
10 "restructured UTG notes," and it goes to interest, various,
11 3.7 to 5.375, you see that?

12 A Yes.

13 Q Okay. So as to that interest rate, in calculating it,
14 did you take into account whether or not the UTG notes were
15 taxable or nontaxable?

16 A No, because those interest rates are the same as they
17 were on the original UTGO bonds.

18 Q Okay. And going down to the --

19 THE COURT: Excuse me one second. I want to nip
20 this issue in the bud. I want you just to answer the
21 question. Do you see how you didn't just answer the last
22 question? It was, "Did you take into account the tax,"
23 whatever. You said, "No, because." Please just answer the
24 question. We'll be here, I think, much less time.

25 BY MR. SOTO:

1 Q And then again with respect to the new LTGO bonds where
2 you have a 5.65 percent, do you know whether the underlying
3 obligations of those LTGO bonds are taxable or nontaxable?

4 A No.

5 Q You don't know?

6 A I don't know.

7 Q And then again with respect to the new B notes where it's
8 four percent and four percent and six percent, do you know if
9 the obligations reflected under those notes are taxable or
10 untaxable?

11 A I do not.

12 Q And then again with respect to the new C notes where it
13 was five percent, do you know if the obligations reflected by
14 the new C notes are taxable or untaxable?

15 A No, I do not.

16 Q And with respect to the restructured UTGO notes, do you
17 know if those obligations are taxable or untaxable?

18 A I do not.

19 Q All right.

20 MR. SOTO: If you could put up 737. That's my next
21 slide I had a question on.

22 BY MR. SOTO:

23 Q So looking at -- I think it's -- yeah, 737, what discount
24 rate did you use to determine the value of the B notes?

25 A We used five percent.

1 Q Five percent? Okay. And what discount rate did you use
2 to determine the value of the C notes?

3 A We used a five-percent discount rate to calculate the
4 present value.

5 Q And how did you value the settlement credits of -- I
6 think it's 6.3 million?

7 A In the 13 percent, they were included at the value of 6.3
8 million.

9 Q That's it?

10 A Yes.

11 Q Did you value the extension of the tunnel lease in
12 connection with this exhibit?

13 A No.

14 Q Did you value what Syncora got under the development
15 agreement in connection with this exhibit?

16 A No.

17 Q Did you value any other consideration received by Syncora
18 like the \$5 million in cash in arriving at this exhibit?

19 A No.

20 Q So if I could -- this is so hard to read, but Exhibit
21 614 -- on Exhibit 614, if the city intends to reject the
22 service contracts, did you calculate the rejection damages in
23 connection with your preparation of this exhibit?

24 A There were no rejection damages that were a part of this
25 exhibit.

1 Q All right. Let's change gears just a second. It's true,
2 isn't it, that in your view the biggest source of untapped
3 revenue for the City of Detroit is asset sales; correct?

4 A Yes. That is a primary -- that was a primary
5 opportunity, yes.

6 Q And it's also true that other cities all over the country
7 have privatized assets, and by that I mean they've taken
8 public assets and sold them and, therefore, made them
9 private; correct?

10 A They've entered P3 partnerships, yes.

11 Q But in all of your projections that we just went through,
12 you didn't consider the impact of the sale of even a single
13 piece of the art from the DIA collection, the impact that
14 would have on the city's revenues, did you?

15 A That is correct.

16 Q And so the record is clear, you also didn't consider the
17 impact that the sale of the entire collection of the DIA
18 would have on the city's revenue either, did you?

19 A That is correct.

20 Q And you also didn't consider the impact that any
21 alternative form of monetization of that art -- for example,
22 a loan against that art or a lease against that art, you
23 didn't consider what impact that would have on the city's
24 revenues; right?

25 A We included the proceeds from the grand bargain, so I

1 don't know if that's what you mean by "alternate" or not, but
2 that's --

3 Q Other than the grand bargain, you didn't include any
4 other potential monetization of the art?

5 A That is correct.

6 Q And you haven't run any alternative ten-year or forty-
7 year forecast that provided for a different treatment of the
8 art than what is currently contemplated by what is referred
9 to as the grand bargain; correct?

10 A Not that I recall. That is correct.

11 Q And you didn't perform that alternative analysis because
12 you weren't asked to; correct?

13 A That's correct.

14 Q Switching gears again, Mr. Malhotra, you talked briefly
15 about the new B notes that are included in the plan of
16 adjustment, and in the 40-year projection you summarize
17 hypothetical distributions to creditors; right?

18 A That is correct.

19 Q And you've included a present value calculation of the
20 new B notes using a five-percent discount rate; right?

21 A We have used a five-percent discount rate to calculate
22 the present value of recoveries, yes.

23 Q And you base this discount rate in part on what the
24 average interest rate on the outstanding limited tax general
25 obligation debt is of the city or I think you called it the

1 LTGO debt rate; right?

2 A That's one of the factors.

3 Q And so when you considered the appropriateness of a five-
4 percent discount rate for the present valuing of, you know,
5 creditor distributions, you looked at the LTGO interest rates
6 but not at their yields; correct?

7 A That is correct.

8 Q And just to clarify for the Court, the interest rate is a
9 static rate; right? It's set at the time of the issuance of
10 the bonds; correct?

11 A That is correct unless it's a floating rate, yes.

12 Q And a bond's yield reflects not only the interest rate
13 but also the price the bond is trading at on the open market;
14 right?

15 A Sure.

16 Q So the bond's yields tells us how the market values that
17 bond, right, which would include not only the interest rate
18 but also other factors that might impact the price of the
19 bond on the open market; correct?

20 A Potentially, yes.

21 Q But you didn't know at the time that you did your
22 analysis whether or not the new B notes were going to be LTGO
23 bonds or some other type of obligation; right?

24 A That is correct.

25 Q And you don't know if the market will value the new B

1 notes in the same way the market values the city's LTGO debt,
2 do you?

3 A The market will value what the market will value. I do
4 not know what the market will value.

5 Q Thank you. I agree. Now, you also based the five-
6 percent discount rate for present valuing the new B notes in
7 part on the long-term interest rates of AA-rated municipal
8 bonds; right?

9 A That is correct.

10 Q But you don't know whether the city will be a AA-rated
11 municipality for purposes of bond financing upon emergence of
12 Chapter 9, do you?

13 A I do not.

14 Q Switching gears again, Mr. Malhotra, you've been working
15 with the city now on various projects, if I understood your
16 testimony, since May of 2011; correct?

17 A That is correct.

18 Q And before the city filed its Chapter 9 petition, the
19 city was already engaged in restructuring efforts to improve
20 its fiscal condition; correct?

21 A That is correct.

22 Q And prior to that Chapter 9 filing, the emergency manager
23 put together an operating plan; correct?

24 A I would have to think back. I believe that's the case,
25 but I would have to see it just to get the exact date.

1 Q Let me hone in on then something you did testify. And on
2 June 14th, 2013, prior to the commencement of this Chapter 9
3 case, the city provided creditors with a proposal that you
4 referred to earlier, the proposal to creditors; right?

5 A That is correct.

6 Q You had some input on the creation of that proposal;
7 correct?

8 A I did.

9 Q And that proposal to creditors included restructuring and
10 reinvestment initiatives, didn't it?

11 A That is correct.

12 Q And so you understand as you worked on that proposal that
13 the city didn't need to file a Chapter 9 filing in order to
14 identify and propose a plan of action with respect to those
15 operational restructuring reinvestment initiatives that it
16 had proposed in the proposal to creditors in June of 2013;
17 correct?

18 A You would have to repeat that question. It was way too
19 long.

20 Q So you understood as you worked on that proposal that the
21 city didn't need to file a Chapter 9 filing in order to
22 identify and propose reinvestment initiatives like they did
23 in the proposal to creditors; correct?

24 A I want to make sure I answer this in -- the way I
25 understand your question is --

1 Q Oh, please do. If I can help you, let me know.

2 A Yeah. If you could just break that down into two
3 components because all I'm -- this sounds like there's two
4 questions in there. The city identified at that point --

5 Q You knew -- so, for example, in June of 2013, you knew
6 you were working on a proposal that included reinvestment
7 initiatives; correct?

8 A Yes.

9 Q And you knew there was no Chapter 9 filing; right?

10 A At that point in time, there wasn't.

11 Q And yet you knew you were proposing a proposal to
12 creditors that included reinvestment initiatives; correct?

13 A Yes. It was meant to -- yes.

14 Q Okay. Now, the city was proposing to do those
15 initiatives outside of Chapter 9; right?

16 A The city was highlighting the need that it had for the
17 different departments, and I'm highlighting the funding
18 required for those costs, but --

19 Q And, in fact, it was proposing those initiatives, wasn't
20 it, in a proposal to creditors?

21 A It was proposing what the city wanted to do in terms of
22 right-sizing the city's operations.

23 Q And you were doing that outside of Chapter 9; correct?

24 A That is correct.

25 Q Now, Mr. Malhotra, you had done work for the Detroit

1 Public Schools before your engagement by the City of Detroit
2 here; right?

3 A That is correct.

4 Q But you hadn't done a forecast of an actual city or
5 municipality before you performed the forecasts for the City
6 of Detroit in this Chapter 9; correct?

7 A That is correct.

8 Q Before you worked for the City of Detroit in this Chapter
9 proceeding, you had never done forecasting specifically for
10 any city; correct?

11 A Yes. That's correct.

12 Q And you haven't published any publications on
13 forecasting; right?

14 A Not on -- no, I have not.

15 Q And you don't hold yourself out as an expert in Chapter 9
16 bankruptcy, do you?

17 A No, I don't.

18 Q In fact, this is the first Chapter 9 bankruptcy that
19 you've worked on; correct?

20 A It is.

21 Q Now, the model that you used for the forecasting was
22 created by you and the folks at E&Y for the City of Detroit;
23 correct?

24 A Yes.

25 Q It didn't exist before E&Y created it in this engagement;

1 correct?

2 A That's correct.

3 Q And in connection with your work for the city when you
4 were pulling together that model, you didn't look at any
5 other Chapter 9 financial models; correct?

6 A We did not look at other Chapter 9 financial models.

7 Q And, in fact, when you were putting together your model,
8 you didn't know the components of financial models used in
9 other Chapter 9 cases, did you?

10 A The components of -- no. I think the components of
11 financial models are revenues and expenses, so I don't know
12 about if there's a Chapter 9 model somewhere. I did not look
13 at other Chapter 9 models.

14 Q One second. Let me hand you your deposition, see if --

15 A Okay.

16 Q It's a copy of your July 15th, 2014, deposition, and I'll
17 ask you to look at page 38 starting at line 5 to line 9. Did
18 I ask you this question --

19 MR. STEWART: Could we wait till I can get to it in
20 my --

21 MR. SOTO: Sure.

22 MR. STEWART: Go ahead.

23 BY MR. SOTO:

24 Q "Question: That wasn't my question. You
25 haven't looked at any other Chapter 9 financial

1 models; correct?

2 Answer: I did not go and look at other Chapter
3 9 financial models. That is correct."

4 Is that your -- is that your answer to that
5 question?

6 A Yes.

7 Q And you were telling the truth then?

8 A Yes.

9 Q And, in fact, when you were putting together your
10 financial model, you didn't know the components is the next
11 question I asked you. Do you recall -- looking again at line
12 16 through 20 of page 39, did I ask you this question, and
13 did you give this answer?

14 MR. SOTO: Geoff, you ready?

15 MR. STEWART: Oh, yeah. I would object. I don't
16 think it's proper impeachment, your Honor, because I don't
17 think there was an inconsistent answer, but -- so I don't
18 think it's appropriate, but I'll leave that up to Court.

19 THE COURT: You may proceed.

20 BY MR. SOTO:

21 Q "Question: You don't know what financial models
22 have been used in Chapter 9's; correct?" is the
23 question.

24 "Answer: I do not know the components of the
25 financial models of other Chapter 9 cases. That is

1 correct."

2 Did I ask that question? Did you give that answer?

3 A Yeah. That was a question that was asked, and that was
4 the answer that I gave at that time, yes.

5 Q And you were telling the truth then; correct?

6 A Yes.

7 Q And you can't identify any Chapter 9 bankruptcy where an
8 expert has done forecasting similar to what you've done in
9 this case; right?

10 A That is correct.

11 Q In fact, before you put together your expert report in
12 this case, you didn't attempt to investigate what had been
13 done in other Chapter 9 bankruptcies; right?

14 A What had done with financial models in bankruptcies?

15 Q Right.

16 A That is -- could you ask me that question once again,
17 please?

18 Q Sure. The question I asked before was can you identify
19 any Chapter 9 bankruptcy where an expert has done forecasting
20 similar to what you've done in this case?

21 A I do not -- yes, I cannot.

22 Q Okay. Switching gears again so you get in the context,
23 it's correct, isn't it, that as of the time of your analysis
24 and, in fact, even when you were deposed, the city had made
25 no arrangement with Ernst & Young to continue updating your

1 forecast after this bankruptcy is done; right?

2 A Yeah. We had not reached a formal arrangement. That is
3 correct --

4 Q And the scope --

5 A -- at that point in time.

6 Q I'm sorry. Go ahead. I didn't mean to interrupt.

7 A At that point in time.

8 Q And the scope of Ernst & Young's role in the event that
9 the plan of adjustment is confirmed has not been agreed upon
10 yet, has it?

11 A It has.

12 Q Okay. Fair enough. Can you tell the Court what it is?

13 A EY's restructuring team is going to continue to assist
14 the city through December of 2015 in monitoring cash flows
15 and helping with actual versus forecast performance.

16 Separately, EY is engaged to help the city on its HR
17 implementation technology and its ERP program.

18 Q And, again, through December of 2015 on both of those?

19 A I'm not sure of the exact date of -- the outside date of
20 both of those. I'm confident of the date for the
21 restructuring services.

22 Q But it's a fact, isn't it, that you've produced many
23 versions of your -- I think I saw many today -- of your ten-
24 year projection and your forty-year projection; correct?

25 A Yes.

1 Q And that's because you've had to continuously update the
2 forecasts as assumptions change and other inputs change;
3 correct?

4 A That is correct.

5 Q And you agree that any of the assumptions in your model
6 can change over a ten-year and forty-year period; correct?

7 A Some assumptions can change over a ten-year and forty-
8 year period.

9 Q And you agree that the timing of the reinvestment
10 expenditures, for example, as they're paced could change,
11 which, again, would affect the assumptions in your model;
12 right?

13 A If you change the timing assumptions from what they are
14 today, the numbers will change.

15 Q And you agree that unforeseen changes can have an impact
16 on your forecast; right?

17 A Yes.

18 Q And, again, you haven't included a line item in your
19 forecasts -- I went back to look -- in which you've provided
20 for ongoing professional fees of Ernst & Young for a ten-year
21 period or a forty-year period consistent with your
22 projections; right?

23 A The fees for Ernst & Young for the forthcoming year after
24 the current fiscal year will be funded through specific
25 projects, but there are no additional fees over ten and forty

1 years.

2 Q Because you might not be there over ten or forty years;
3 correct?

4 A That is correct.

5 Q And it would also be fair to say that the assumptions in
6 your forecast depend on certain policy choices by Detroit
7 officials; correct?

8 A Yes.

9 Q And in the future during the ten-year period addressed by
10 your ten-year forecast, there might be different decision-
11 makers who are responsible for determining Detroit's
12 policies; right?

13 A Yes. People -- yes.

14 Q You would agree that the projections that you testified
15 about this morning and actually through the afternoon are
16 dependent on the successful implementation of the city's
17 budget and the reliability of other estimates and assumptions
18 that are the basis of your projections; correct?

19 A I'd request you to break that question down, please.

20 Q Sure. Would you agree that the projections that you
21 testified about today are dependent on the successful
22 implementation of the city's budget, that they stick to the
23 budget that's part of your projections?

24 A The city generally does a one-year budget or two --
25 they're going to go to a triennial budget. The 2015 budget

1 is going to be a transitional year, so the city is going to
2 use these projections to form the basis of a budget, so I'm
3 just not sure that I completely understand your question
4 because there isn't -- the budget is going to continue to
5 evolve and is an iterative process that continues to get
6 amended, so 15 and 16 and 17 will be essentially based on the
7 projections that are existing today.

8 Q So it's your view that, for example, the projections that
9 you created have both form of budgets in it. They presume
10 certain things are going to be done and certain items are
11 going to be in the city's budget; correct? That's part of
12 your projection for ten years. That's also part of your
13 projection for forty years; correct?

14 A Yes.

15 Q And if those presumptions are not carried on by the city,
16 if they're not included, for example, in the one-year budgets
17 that you just discussed, they would have an impact on your
18 projections; correct?

19 A I'm trying to just think of specifics. If you change the
20 assumptions, the numbers do change.

21 MR. SOTO: Thank you, Mr. Malhotra. Your Honor, we
22 have to proffer two clips of Mr. Malhotra's testimony as a
23 30(b)(6) witness for the city. We would proffer them at this
24 time and play them at this time.

25 THE COURT: Any objections?

1 MR. STEWART: I need to know what clips they are and
2 what page and lines they are.

3 MR. SOTO: Sure. They are the -- they're both from
4 the July 15th, 2014, deposition. They are page 144, lines 9
5 through 12, and page 115, line 25, through page 116, line 6.
6 They have actually both been played before in this courtroom.

7 MR. STEWART: I have no objection, but we'll have to
8 on redirect, your Honor, deal with a completeness issue as to
9 the second clip.

10 THE COURT: Okay. Mr. Stewart, can you pull that
11 microphone closer to you, please?

12 MR. STEWART: Very good.

13 THE COURT: All right. You may proceed, sir.

14 MR. SOTO: And actually I'm only playing the first
15 clip, so you won't have to worry about it. I don't know why
16 I said that. The first clip, which is page 144, nine through
17 twelve, is the only one we're proffering. If you could play
18 it --

19 (Deposition clip of Mr. Malhotra's deposition played as
20 follows:)

21 "Question: You haven't been asked to look at
22 what would happen if the petition is dismissed by
23 the city or the state; correct?

24 Answer: That is correct."

25 (Deposition clip concluded)

1 MR. SOTO: No further questions, your Honor.

2 THE COURT: Okay.

3 MR. WAGNER: Your Honor, Jonathan Wagner on behalf
4 of the COPs. May I proceed?

5 THE COURT: Yes, please.

6 CROSS-EXAMINATION

7 BY MR. WAGNER:

8 Q Good afternoon, Mr. Malhotra. You and I have never met,
9 have we?

10 A I don't believe so, no.

11 Q I also have some questions -- a few questions about the
12 exhibits that we're seeing for the first time today.

13 MR. WAGNER: Can you put up Exhibit 742?

14 BY MR. WAGNER:

15 Q Now, this is one of the calculations that you were
16 instructed to perform at the direction of counsel; is that
17 correct?

18 A That is correct.

19 Q Now, the totals there by my math equal about 1.6 billion;
20 is that fair?

21 A Yes.

22 Q And if the UAAL was 3.1 billion, then the -- or if the
23 liability -- if the amount of the claim was 3.1 billion, then
24 the return rate for the pension classes would be about 51, 52
25 percent, 1.6 over 3.1?

1 A Could you ask me that question again? I apologize.

2 Q If you add those two together and you divide by 3.1
3 billion, which is the size of the pension claim you testified
4 to earlier today, that's a recovery rate of about 52, 53
5 percent; right?

6 A That math sounds right.

7 Q Okay. But that's not anywhere in the plan, is it?

8 THE COURT: Excuse me one second. We've had a
9 disconnect here. The question was not or not entirely about
10 the math. The question was whether the recovery rate is 50
11 or 51 percent.

12 THE WITNESS: Your Honor, under -- using \$1.6
13 billion of a present value over a \$3.2 billion claim and
14 where the \$1.6 billion has been calculated at a 6.75-percent
15 discount rate, that recovery percentage equates as long as
16 the claim is also valued at \$3.2 billion.

17 THE COURT: Okay.

18 BY MR. WAGNER:

19 Q But the percentages in the plan are 59 and 60 percent,
20 are they not?

21 A Are we using a five-percent discount rate?

22 Q That's what you used in the plan; correct?

23 A That is the same -- that is the five percent discount
24 rate we have used, yes.

25 Q And the plan has been amended several times since you

1 first laid out -- since the city first laid out the 59- and
2 60-percent return rates?

3 A Yes. The plan has been amended.

4 Q The plan was amended as late as two weeks ago; correct?

5 A That is correct.

6 Q And it still uses 59 and 60 percent; right?

7 A Yes. We use the same discount rate.

8 Q And your projections that you prepared originally showed
9 a recovery rate of 59 and 60 percent, did they not?

10 A Yes. They showed a 59- or 60-percent on that claim
11 amount and the distributions assuming a five-percent discount
12 rate.

13 Q Okay. And the projections that you prepared just a week
14 ago also show 59- and 60-percent recovery, do they not?

15 A Based on the same assumptions that I just answered
16 earlier, yes.

17 Q And, again, the only reason you prepared -- used 6.75 is
18 because your counsel told you to; right?

19 A That is correct.

20 MR. WAGNER: Now, can you put up Exhibit 723? No.
21 The city has to put it up, 723.

22 BY MR. WAGNER:

23 Q Now, here you showed UAAL pre-petition of a billion eight
24 for GRS and a billion 250 for PFRS; correct?

25 A That's correct.

1 Q And now -- this is as of 2014 -- you've had a substantial
2 reduction in the UAAL; correct?

3 A Yes.

4 Q I think you testified that the unfunded liability has
5 gone from 53 percent -- about 53 percent and 71 percent to in
6 the 70s for both of them; is that correct?

7 A I think I said it was pretty close to the target. PFRS
8 may be slightly higher. I do not remember the exact funded
9 percentage status today. I think GRS may be close to 70, and
10 PFRS may be a little higher, but I do not remember the exact
11 numbers.

12 Q I'm right for PFRS you've already hit the target; right?

13 A Yes.

14 Q And by the way, the billion 879 and a billion 250, that
15 was calculated and used -- that was calculated using a 6.75
16 discount rate; correct?

17 A That is correct.

18 Q And if you used a higher discount rate, the UAAL would be
19 smaller, correct, or the unfunded portion would be smaller?

20 A If that is the only assumption that you changed, the
21 numbers would be different.

22 Q And you also testified that the 6.75 was a negotiated
23 rate; right?

24 A It was a part of the settlement, yes.

25 Q And are you aware that the retiree has said that the 6.75

1 is not based on pension practice?

2 A I'm not aware of that.

3 Q Okay. And are you aware that the expert for the Retiree
4 Committee --

5 MR. STEWART: Objection, your Honor. I'd like to
6 know why he's asking one witness about the testimony of
7 another.

8 THE COURT: Well, let me hear the whole question,
9 and then I'll hear your objection. Go ahead, sir.

10 BY MR. WAGNER:

11 Q Are you aware that the Retiree Committee expert has
12 testified that the 6.75 is an outlier?

13 MR. STEWART: I'd repeat my objection, your Honor.

14 MR. WAGNER: Well, he's testified to why he used
15 particular numbers. I think I'm entitled to show because he
16 has given testimony about the UAAL that the numbers he's used
17 misstate the UAAL.

18 THE COURT: The objection is sustained.

19 BY MR. WAGNER:

20 Q Now, this past year I'm right that the returns have
21 exceeded 6.75 percent?

22 A Yes.

23 Q And that's why the unfunded liability has gone down;
24 correct?

25 A That's only one of the reasons.

1 Q We'll get to that in a minute. You testified concerning
2 the fees that have been incurred. This is Exhibit 767. I
3 think the total fees are 182 million for 2014 and 2015;
4 correct?

5 A That is correct. It includes an estimate as well for
6 fiscal year '15, but that is what the schedule shows. That
7 is correct.

8 Q Now, does this figure also include the fees prior to
9 2014?

10 A No.

11 Q Do you know what the fees have been from the time -- all
12 the professional fees from the time you were retained in 2011
13 until this chart?

14 A I do not.

15 Q Was it \$10 million? Was it more than \$10 million?

16 A My recollection is it would be less than \$10 million.

17 Q Okay. But just the 182 million, that exceeds the amount
18 of the COP reserve, does it not?

19 A The \$182 million is larger than the \$162 million COPs
20 reserve.

21 Q You also gave some testimony about the return to COPs.
22 The total amount of COPs are a billion four; right?

23 A That's the COPs claim.

24 Q And the interest rate on those COPs under the B notes at
25 the beginning is four percent; right?

1 A Yes. The B notes the interest rate is four percent for
2 the first decade.

3 Q So am I right that the debt service on another ten
4 percent of the COPs, 140 million, would be \$5-1/2 million?
5 Putting aside amortization, just the interest cost would be
6 5-1/2 -- about 5.6 million, 140 times .04?

7 A Yeah. I mean that -- overall in terms of the actual
8 incremental interest, if you're just looking at interest, I
9 think that would be the rough math.

10 Q Now, you also gave some testimony about a plan freeze.
11 Do you recall that?

12 A Yes.

13 Q And I think you said there'd be no more accrual of
14 benefits under the plan on account of a plan freeze. Do you
15 recall that?

16 A Yes, under the old plan.

17 Q And do you recall that you said that that would reduce
18 the pension liability?

19 A Yes.

20 Q And there's no dispute about that, is there?

21 A I do not know there's a dispute or not.

22 Q Okay.

23 MR. WAGNER: Can you put up Exhibit 1009? Your
24 Honor, this is a letter from Milliman. It's already in
25 evidence based on your Honor's September 2nd order.

1 BY MR. WAGNER:

2 Q Can you turn to page 3 of the document?

3 MR. STEWART: Do you have a hard copy version of
4 that?

5 MR. WAGNER: I don't with me. I didn't realize he'd
6 be testifying about these issues, so I didn't know.

7 MR. STEWART: Excuse me a moment.

8 MR. WAGNER: Now, can you blow up the portion that
9 says "estimated plan freeze impact"?

10 BY MR. WAGNER:

11 Q Do you see it says, "Our preliminary result as of June
12 30, 2013, based on an investment return assumption of 6.75 is
13 that the impact of the plan freeze represents a decrease of
14 roughly 95 billion -- 95 million or roughly 12 percent of the
15 active liability"? Do you see that?

16 A Yes.

17 MR. WAGNER: And can you just go to page one of the
18 document, and can you highlight the "re." line?

19 BY MR. WAGNER:

20 Q So this is for -- this is for GRS; right?

21 A Yes.

22 Q So the impact of a plan freeze with respect to GRS is a
23 reduction of liability of 95 million; right?

24 MR. STEWART: Objection.

25 THE COURT: What is your objection?

1 MR. STEWART: That's what the document says. A
2 question is -- I don't know if he's saying that that's what
3 the document says or whether he's asking the witness his
4 independent view.

5 THE COURT: Which is it?

6 MR. WAGNER: I'm asking if he knows. He testified
7 he got input from Milliman. I'm asking whether he -- if
8 that's his understanding.

9 THE WITNESS: That's what the document says.

10 MR. WAGNER: Can you turn to Exhibit 1010? Can you
11 put up Exhibit 1010?

12 THE COURT: Well, let me say, counsel, that we don't
13 need you to have this witness read into the record documents
14 that are already in evidence. If there's some other purpose,
15 go for it, but --

16 MR. WAGNER: That's fine.

17 BY MR. WAGNER:

18 Q Now, you discounted the state contribution at a rate of
19 6.75 percent?

20 A That is correct.

21 Q And why did you do that? Is that also at the instruction
22 of counsel?

23 A That was part of the discussion with the state.

24 Q And was the 6.75 supposed to represent any risk that
25 payment would not be made?

1 A That's a question I guess to ask the state, but the 6.75-
2 percent discount rate used to calculate the present value of
3 the \$350 million the state is contributing was based on an
4 overall agreement with the state.

5 Q So that was simply another agreement that was negotiated;
6 correct?

7 A Yes.

8 MR. WAGNER: Nothing further, your Honor.

9 CROSS-EXAMINATION

10 BY MS. O'GORMAN:

11 Q Good afternoon, Mr. Malhotra. My name is Debra O'Gorman.
12 I represent MIDDD. Now, you're not an expert in tax policy,
13 are you?

14 A I am not.

15 Q And you're not an expert in tax forecasting, are you?

16 A I am not.

17 Q You're not an economist, are you?

18 A I am not.

19 Q You have no expertise in pensions; correct?

20 A I'm not an actuary.

21 Q You don't have any expertise in urban policy or planning,
22 do you?

23 A No, I do not.

24 Q You don't have any expertise in blight reduction, do you?

25 A No, I do not.

1 Q Are you an expert in art valuation?

2 A No.

3 Q Are you a CPA?

4 A I am not.

5 Q And you've never before been qualified as an expert in
6 accounting; correct?

7 A That is correct.

8 Q Now, in preparing your forecast, you relied on many
9 others to provide assumptions for you; is that correct?

10 A Input, yes.

11 Q And these were other experts as well as various people
12 from the city; correct?

13 A Yes.

14 Q And as to the anticipated tax revenues that are built
15 into your forecasts, you didn't perform your own work in that
16 regard; correct?

17 A We had experts for that, but I did look through the
18 assumptions.

19 Q Thank you. You answered my question. So you relied on
20 Mr. Cline and Ms. Sallee for that information?

21 A I relied on Ms. Sallee and Bob Cline.

22 Q And you're not offering any opinions on tax policy;
23 correct?

24 A That's correct.

25 Q And you're not offering any opinions on whether the city

1 could seek to increase taxes, are you?

2 A I'm not making any comment on policy, tax policy.

3 Q And you're not offering any opinion on whether the city
4 could ask the state to collect taxes on their behalf, are
5 you?

6 A That is correct.

7 Q Would you agree that Mr. Cline and Ms. Sallee are the
8 most knowledgeable about the analysis they performed with
9 respect to tax revenues?

10 A Yes, for each of the purposes that they -- for each of
11 the tax lines that they forecasted, yes.

12 Q And would you agree that taxes are the biggest driver of
13 city revenues?

14 A Yes.

15 Q And they're the primary source of revenue for any
16 municipality; correct?

17 A They are. They are. Taxes are a primary source of
18 revenues and -- yes.

19 Q Okay. And you relied on others for that work; right?

20 A I relied on experts for that work.

21 Q Okay. And you also relied on Conway MacKenzie; correct?

22 A Yes, for specific revenue and expense items.

23 Q And those were the reinvestment initiative items that you
24 relied on Conway MacKenzie for?

25 A Yes, and, as I said, in conjunction with the work that we

1 had already done to make sure there was no double counting.

2 Q And you didn't do any independent analysis or testing of
3 those numbers, did you?

4 A I did.

5 Q You did?

6 A Yes. I just said I made sure that none of the operating
7 revenue initiatives or any of the operating expenditures were
8 double counted in any fashion in the baseline.

9 Q So you just avoided the double counting, but you did no
10 other analysis of the accuracy of any of the numbers
11 themselves?

12 A In terms of the analysis, I mean we also went through the
13 headcount assumptions in a lot of detail in terms of what
14 were the average revenue -- average salary assumptions that
15 were being used in terms of all the headcount that was coming
16 in and regardless of any double counting to make sure that
17 the fringe rates and the average salary levels and the
18 headcount assumptions were vetted by department.

19 Q Okay. But you would agree that Conway MacKenzie would be
20 the most knowledgeable about their work; correct?

21 A Yes. People who only do specific work, yes, are more
22 knowledgeable about their work.

23 Q Okay. And you also relied on Miller Buckfire for your
24 assumptions?

25 A For the quality of life loan and the exit financing

1 assumptions, yes.

2 Q Did you verify the accuracy of Miller Buckfire's work?

3 A I had supporting information that was provided by the
4 financing sources, and we had discussions about the structure
5 based on what input they got from the financing sources, so
6 we did spend a lot of time discussing those versus just
7 plugging them into a model.

8 Q Okay. Did you also rely on Milliman in forming your
9 assumptions?

10 A Yes. We used Milliman's input on the assumptions in some
11 of the legacy liabilities.

12 Q And Milliman would be most knowledgeable about the work
13 that they performed; correct?

14 A Yes.

15 Q And you were asked by Mr. Soto about policy choices by
16 future decision-makers. Would you be required to speculate
17 in order to determine what policy choices Detroit's future
18 leaders would make over the next ten years?

19 A Could you ask me that question again, please?

20 Q Would it be speculation on your part for you to determine
21 now today what Detroit's future leaders -- what decisions
22 they would make?

23 A Yeah. I cannot decide or comment on all the policy
24 decisions the future governments make.

25 Q So you'd be speculating; right?

1 A Yes. I mean they -- yes. If any --

2 Q Okay. Thank you.

3 A I can't comment on all the policy decisions or policy
4 decisions that government leaders will make in the future.

5 Q Because you'd have no way of knowing what will happen;
6 right?

7 A Well, I would not know of anything about tax policies
8 that -- yes. I would not know what some administration does
9 down the road in the future.

10 Q You wouldn't know what decisions would be made in the
11 future; correct?

12 A That is correct, in the future.

13 Q Okay. Now, you didn't use any kind of mathematical
14 formula in identifying the historical trends that went into
15 your forecast; correct?

16 A No, that's not.

17 Q In what way is that incorrect?

18 A Well, I just want to make sure I'm -- there are lots of
19 line items if you've gone through individual line items, and
20 in terms of looking at the trends, we've looked at some of
21 the line items that needed either an average or we used some
22 of the last 2013 numbers in terms of the forecast, so --

23 Q So you used averages, but you didn't use a regression
24 analysis or any kind of sophisticated mathematical modeling;
25 correct?

1 A I don't know if regression analysis is sophisticated
2 mathematical modeling, but in terms of the actual costs that
3 were in specific departments or revenues, we did use
4 mathematical formulas in our forecasting.

5 Q But I'm asking you a different question about historical
6 trends. Didn't you just take a couple of years of data and
7 do an average and make some adjustments and carry those
8 numbers forward? Isn't that what you did?

9 A No. I think we went through a very robust process of
10 looking through and understanding what the changes were, what
11 the assumptions were. We spoke to the management team. We
12 reviewed those numbers with the management team and then
13 started to come up with forecasts versus just look at a
14 couple of years and put a number in there.

15 Q Right. So you had historical data, and you made some
16 adjustments based on your conversations with city department
17 heads; right?

18 A And analyses of each of those line items to understand
19 what was in there, what were one-time trends, what was
20 repeating numbers and going -- that would impact the forecast
21 going forward.

22 Q Now, would you agree that increased taxes would be a
23 potential source of revenue for the city? I'm just asking if
24 it could be a potential source of revenue.

25 A Leaving everything else aside and leaving everything else

1 the same, if taxes go up, the revenues -- the overall picture
2 will look better.

3 Q Right. And you were instructed by the emergency manager
4 to assume that tax rates would remain constant; correct?

5 A That's right.

6 Q And you were also asked to assume by the emergency
7 manager that there would be no new taxes, you know,
8 additional taxes that don't exist today?

9 A That is correct.

10 Q And you've done no analysis of the collection of
11 delinquent taxes in your model?

12 A We have not.

13 Q And I wanted to ask you about the B and C notes that we
14 talked about earlier. Now, the new B notes are interest only
15 for ten years; correct?

16 A That is correct.

17 Q And those are unsecured obligations of the city; correct?

18 A Yes.

19 Q And you don't know whether they're taxable or not?

20 A I do not.

21 Q Now, would you agree that as a general proposition that a
22 higher rate of return would typically be demanded by the
23 market for a taxable bond versus a nontaxable bond?

24 A I don't want to -- I can't comment on that.

25 Q Now, under the plan the city is issuing new C notes;

1 correct?

2 A That is correct.

3 Q And those have a 12-year maturity as opposed to 30 years
4 with B notes; correct?

5 A That is correct.

6 Q And would you agree that notes with shorter maturities
7 would typically have less payment risk than those with longer
8 maturities?

9 A I would not want to comment on that.

10 Q And the new C notes amortize principal with the first
11 annual payment; correct?

12 A That is correct.

13 Q And the B notes are interest only; correct?

14 A They are interest only for the first ten years.

15 Q And the C notes pay what interest rate?

16 A Five percent.

17 Q And the B notes pay four percent for the first 20 years;
18 correct?

19 A That is correct.

20 Q Would you agree that the amortizations -- that under the
21 new C notes there's less of a risk of nonpayment than the B
22 notes?

23 A The money is coming from the city. The risk profile is
24 the risk profile.

25 Q But the new C notes, there is a payment of principal from

1 the start; correct?

2 A That is correct. I'm saying the source of the funding is
3 the same. It's the city, its cash flows.

4 Q Well, that's not really true, is it, because the C notes
5 are paid from parking revenues; correct?

6 A At the end of the day, the C notes are paid through
7 improvement in parking revenues, but it's going to come out
8 of the general fund at the end of the day.

9 Q Okay. Well, is there any segregation of funds for
10 payment of the new B notes?

11 A No.

12 Q They come from the general obligations of the city;
13 correct?

14 A Yes.

15 Q Have you taken into account improvements in the economy
16 in the last four or five years in your forecast?

17 A In terms of the tax forecasts?

18 Q Generally, the economy in general.

19 A I would think that the pieces that impact Detroit, for
20 instance, for what we have seen in the trends and the sales
21 and charges for services -- I don't know if it's anything
22 related to the improvement in economy versus not, but I've
23 looked at in detail all the revenue items that are impacting
24 Detroit, so I don't know if -- what you would ascertain to an
25 improvement in economy versus not.

1 Q But you do agree that the economy of Detroit has been
2 improving since 2008, 2009; correct?

3 A I would say that overall since 2008, 2009 I think the
4 economy overall has improved.

5 Q And you didn't make any specific effort to include those
6 improvements in your forecast; correct?

7 A Well, we have looked at the trends from 2008, 2009 in all
8 of the department financials, so my point is they would be
9 imbedded in there if there was any direct improvement.

10 MS. O'GORMAN: Okay. Thank you. That's all I have.

11 THE COURT: Any other cross-examination of the
12 witness?

13 MR. SOTO: No, your Honor.

14 THE COURT: Redirect?

15 MR. STEWART: No redirect, your Honor.

16 THE COURT: Stand by one second, please. So to what
17 extent, sir, did you make independent judgment about the
18 reasonableness of the assumptions in the city's ten-year
19 forecast or projections?

20 THE WITNESS: It was quite extensive, your Honor.

21 THE COURT: It was. Are you familiar with the
22 concept of critical assumption?

23 THE WITNESS: Yes.

24 THE COURT: Okay. I want to ask you what are the
25 two or three most critical assumptions in the city's ten-year

1 forecast or projections that concern you the most?

2 THE WITNESS: The first one, your Honor, one would
3 be the unfunded pension liability of the city at the end of
4 the ten years because -- and a lot of this in terms of the
5 settlements of the creditors we have boxed in what the city's
6 liability will be. On the side of the pensions, we are still
7 using calculations to estimate what that ten-year unfunded
8 liability will be. So that would be my first one as a
9 concern because it's an unknown. It's an estimate, but it's
10 still not boxed in in terms of how we have boxed in our best
11 ability of the other claims.

12 The second assumption in terms of what would give me
13 concern is we are trying to get five-year labor agreements,
14 and we just want to make sure that even after those five
15 years there are various assumptions in the plan with respect
16 to retiree healthcare for our current active employees that
17 have been taken down significantly, so just so that the city
18 has gone through a painful process of dealing with the
19 retiree healthcare of its current retirees so that it does
20 not happen again could be a five-year contract, so I just
21 don't know what happens after those five years.

22 Those would be the top two, and then the last one,
23 which is more general, is just the implementation of the plan
24 now because the roadwork has been created in some fashion.
25 Our blueprint is existing, but I think the same amount of

1 rigor has to now go into the implementation or probably even
2 more rigor than in sort of developing the blueprint, and I
3 would say those, in my view --

4 THE COURT: What concerns you about the
5 implementation of the plan? Can you be more specific about
6 what your concerns are?

7 THE WITNESS: There's a lot of change, your Honor --
8 I mean that has to happen over the next four to five years
9 with respect to the -- all of the department revenue
10 initiatives as well as the process improvements, and so I
11 am -- from all the time I've spent with the mayor and the
12 CFO, I'm very comfortable there in terms of the
13 implementation ability, but it's just the speed of the
14 implementation. We have significant uptick in revenues in
15 the plan that are based on reinvestments. Yes, they come
16 five years down the road, but -- so I think we will just have
17 to make sure that we have the rigor to implement the plan.

18 THE COURT: Make sure we have the what?

19 THE WITNESS: A rigorous focus on implementing the
20 plan. I'm less concerned about line items moving up and down
21 in terms of costs, but I would not want to have a change in
22 terms of taking one-time CAPEX items and converting that into
23 long-term increased cost of the -- increasing the fixed cost
24 structure of the city long term.

25 THE COURT: Well, do you have any concern about

1 willingness or the ability of the city to implement the plan?

2 THE WITNESS: From all the conversations I have had
3 with the leadership team, I have -- I do not have concern
4 about the willingness to implement the plan. The ability of
5 the collective team to implement the plan is a function of
6 time and focus on these particular efforts once the city
7 exits from bankruptcy. And I've been involved with the city
8 for over three and a half years and understand the practical
9 limitations that the city will be faced with of implementing
10 the plan post-bankruptcy, and it's that constant focus of
11 making sure that the city is going to implement this plan is
12 critical.

13 THE COURT: Did you testify earlier that E&Y's
14 contract with the city has been extended through 2015?

15 THE WITNESS: That is correct, your Honor.

16 THE COURT: Calendar year or fiscal year?

17 THE WITNESS: December 31st, 2015.

18 THE COURT: December 31st. And will part of that
19 work continue the work that E&Y has done with respect to cash
20 management?

21 THE WITNESS: Yes, your Honor.

22 THE COURT: What is your judgment on whether the
23 city will be able to take over those cash management
24 functions that E&Y does now and will do through December of
25 2015 at that time?

1 THE WITNESS: It will -- it depends, your Honor, on
2 the people that are hired over the course of the next few
3 months, and so it's hard for me to comment today. Today I
4 wouldn't be comfortable saying that I could just hand it
5 over, but I think as the existing team at the city continues
6 to get some more resources around them, there is a potential
7 that these cash management services can be transitioned,
8 especially once we have a little more stability through this
9 transitional year that the city is going to be going through.

10 THE COURT: What would the consequences be if the
11 city did not renew the contract after December of 2015 or
12 find a substitute contractor to do the work and it were not
13 ready to assume proper cash management functions?

14 THE WITNESS: The risk in that scenario, your Honor,
15 is exactly twofold, one, because of the state law and having
16 a clear amount -- a handle on cash before you're going into
17 the next budget year because you have to maintain that five
18 percent, so it's a controls issue in terms of that may get
19 impacted, and really so -- and I would say what would get
20 impacted is the long-term forecast ability of the city will
21 get impacted because a lot of -- a lot of the issues have
22 come up because the city did these one-year budgets or one-
23 year outlooks whereas looking at cash flows over a longer
24 time frame and managing cash over the long term, so that is
25 the risk that we run into in which we can again focus back

1 into the very short term and make decisions based on the
2 outlook of a very short term.

3 THE COURT: So is it fair to say that it is your
4 judgment that maintaining adequate cash flow competency
5 either by an outside contractor or adequate inside resources
6 is critical to the implementation and feasibility of the
7 plan?

8 THE WITNESS: I do, your Honor.

9 THE COURT: All right. That's all I have. Any
10 follow-up questions? All right. Before we break for the
11 day -- you're excused, sir.

12 (Witness excused at 4:45 p.m.)

13 THE COURT: I think that rather than start on
14 another witness, we will recess here in a moment, but,
15 Ms. Lennox, I want to talk to you, please.

16 MS. LENNOX: Yes, sir.

17 THE COURT: First, I have a news flash for you.

18 MS. LENNOX: Okay.

19 THE COURT: You have a message from my assistant,
20 Chris. Please call her.

21 MS. LENNOX: Okay. I will do that, your Honor.

22 THE COURT: Have you had any conversation with Mr.
23 Flynn about the plans to deal with the Detroit Fire Fighters'
24 issues tomorrow?

25 MS. LENNOX: I have, your Honor, and --

1 THE COURT: Where are we with that?

2 MS. LENNOX: So I guess we were confused where this
3 came from, and apparently it came from an entry that your
4 Honor put on the docket on September 3rd stating that the
5 issues for the UAW and the DFFA will be presented on
6 September 30th.

7 THE COURT: Right.

8 MS. LENNOX: Well, the DFFA had never designated any
9 witnesses. They were not -- they did not indicate to us that
10 they were planning to put on a fact case, and so we were a
11 little confused by what DFFA issues because they hadn't
12 designated witnesses. After I spoke with Mr. Flynn, he
13 indicated that they do not intend to present factual issues.
14 In fact, they will be withdrawing the objections to
15 confirmation as to certain factual matters. They are
16 preserving their objections with respect to the legal issues,
17 which, as your Honor may recall, Mr. Legghio and I argued
18 back in July. So I believe it is their view -- and we would
19 concur since they don't plan to present witnesses -- that
20 they would have no need to come into court tomorrow unless
21 your Honor has questions for them that you'd like them to
22 answer.

23 THE COURT: Okay. Thank you for that report. Has
24 the mediation with the Detroit Fire Fighters Association
25 concluded yet?

1 MS. LENNOX: It has not concluded. I can report
2 that we've made --

3 THE COURT: It has not concluded?

4 MS. LENNOX: No. And I believe they're planning to
5 meet again this Wednesday. I can report that we have made
6 significant progress actually since last time we were before
7 your Honor. Certainly it's our view that we'd like to
8 conclude this as soon as we can.

9 THE COURT: All right. So it sounds like we will be
10 proceeding with our regular trial schedule tomorrow
11 uninterrupted by any previously slotted in issues. Does that
12 sound right? Wednesday we do have to carve out some time for
13 objections to claims; right?

14 MS. LENNOX: Correct, your Honor.

15 THE COURT: That's what --

16 MS. LENNOX: I believe the MIDD trial is on
17 Wednesday as well.

18 THE COURT: You believe what?

19 MS. LENNOX: The MIDD objection is up Wednesday.

20 THE COURT: I think that's what Ms. Sikula wants to
21 talk to you about.

22 MS. LENNOX: Okay.

23 THE COURT: All right. Anything further for today?
24 Sir?

25 MR. STEWART: Nothing further from me, your Honor.

1 THE COURT: Thank you.

2 MS. LENNOX: Thank you, your Honor.

3 MR. SHUMAKER: Your Honor, one thing on Mr. Orr. I
4 just wanted to let you know that I've been talking with Mr.
5 Soto about when Mr. Doak will testify, and I don't think that
6 that's going to happen until Thursday or Friday, which would
7 mean tomorrow's lineup would be Mr. Buckfire, Mr. Kaunelis
8 from the DWSD, and then Mr. Orr. And I just wanted to advise
9 your Honor of that for notice purposes.

10 THE COURT: All right.

11 MR. SHUMAKER: Thank you, your Honor.

12 THE COURT: Anything else for today? All right.

13 We're in recess until tomorrow morning then.

14 THE CLERK: All rise. Court is adjourned.

15 (Proceedings concluded at 4:49 p.m.)

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I certify that the foregoing is a correct transcript from the sound recording of the proceedings in the above-entitled matter.

/s/ Lois Garrett

October 3, 2014

Lois Garrett